



LODI CITY COUNCIL

Carnegie Forum
305 West Pine Street, Lodi

**** A G E N D A ****

REGULAR MEETING – Lodi City Council
SPECIAL MEETING – Redevelopment Agency

Date: February 4, 2009

Time: Closed Session 6:00 p.m.

Regular Meeting 7:00 p.m.

For information regarding this agenda please contact:
Randi Johl, City Clerk, (209) 333-6702

***NOTE:** All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk, located at 221 W. Pine Street, Lodi, and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 24 hours prior to the meeting date.*

C-1 Call to Order / Roll Call

C-2 Announcement of Closed Session

- a) Threatened Litigation: Government Code §54956.9(b); One Case; Potential Suit by Jose Nava against City of Lodi Based on Personal Injury
- b) Actual Litigation: Government Code §54956.9(a); One Case; City of Lodi v. Michael C. Donovan, an individual; Envision Law Group, LLP, et al., San Francisco Superior Court, Case No. CGC-05-441976

C-3 Adjourn to Closed Session

NOTE: THE FOLLOWING ITEMS WILL COMMENCE NO SOONER THAN 7:00 P.M.

C-4 Return to Open Session / Disclosure of Action

A. Call to Order / Roll call

B. Invocation – Pastor Steve Newman, First Baptist Church

C. Pledge of Allegiance

D. Presentations

- D-1 Awards – None
- D-2 Proclamations – None
- D-3 Presentations
 - a) Quarterly Update by the Greater Lodi Area Youth Commission (COM)

E. Consent Calendar (Reading; Comments by the Public; Council Action)

E-1 Receive Register of Claims in the Amount of \$4,664,095.15 (FIN)

E-2 Approve Minutes (CLK)

- a) January 20, 2009 (Shirtsleeve Session)
- b) January 21, 2009 (Regular Meeting)
- c) January 27, 2009 (Shirtsleeve Session)

Res. E-3 Adopt Resolution Approving Purchase of John Deere Backhoe/Loader from Pape Machinery, of French Camp, for Replacement of Vehicle No. 04-128 and Appropriating Funds (\$100,000) (PW)

E-4 Accept Improvements under Contract for the Asphalt Rubber Cape Seal, Various Streets, 2008 Project (PW)

- Res. E-5 Adopt Resolution Awarding Contract for the Blakely Park North Pool Deck Improvements, 1050 South Stockton Street, to Greg Carpenter Concrete, Inc., of Lodi (\$44,917.50) (PR)
- E-6 Report on Contract Change Order No. 2 for Lodi Lake Boathouse/Discovery Center Improvements, 1101 West Turner Road (PR)
- Res. E-7 Adopt Resolution Appointing New Representatives to the Lodi Tourism Business Improvement District Advisory Board (CLK)
- E-8 Set Public Hearing for February 18, 2009, to Review and Approve Both the Joint-Application for Neighborhood Stabilization Program Funding through the California Department of Housing and Community Development and the Memorandum of Understanding for all Participating Jurisdictions (CD)
- E-9 Receive and Accept Quarterly Report of Purchases Between \$5,000 and \$20,000 (FIN)

F. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

G. Comments by the City Council Members on Non-Agenda Items

H. Comments by the City Manager on Non-Agenda Items

I. Public Hearings

- I-1 Public Hearing to Consider the Community Development Block Grant Program Consolidated Plan and Action Plan Development Process and to Receive Input Regarding Community Needs and Funding Priorities (CD)

J. Communications

- J-1 Claims Filed Against the City of Lodi – None
- J-2 Appointments
- a) Post for Three Expiring Terms on the Lodi Improvement Committee (CLK)
- J-3 Miscellaneous – None

K. Regular Calendar

- K-1 Review and Endorse Economic Development/Owner Participation Policies and Conceptual Three-Year Program Budget for the Lodi Community Improvement Project (CM)
NOTE: This item is carried over from the meeting of 1/21/09
NOTE: Joint action of the Lodi City Council and Redevelopment Agency
- Res. K-2 Adopt Resolution Rescinding Certification of the Final Revised Environmental Impact Report (EIR) for the Lodi Shopping Center Project Located at 2640 West Kettleman Lane and Reset Public Hearing for March 11, 2009, at 6:30 p.m. to Consider the Appeals of Browman Development Company and Wal-Mart Stores, Inc. Regarding the Decision of the Planning Commission to Not Certify the Final Revised EIR (CA)
- Res. K-3 Adopt Resolution Authorizing the City Manager to Enter into a Second Amendment to World of Wonders Science Museum Lease (CM)

- Ord. K-4 Introduce Ordinance Amending Lodi Municipal Code Title 13 – Public Services – by Repealing
(Introduce) and Reenacting Chapter 13.12, “Sewer Service,” in its Entirety (CA)
- K-5 Approve Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental
Abatement Program Litigation and Various Other Cases being Handled by Outside Counsel
(\$161,948.01) (CA)

L. Ordinances

- Ord. L-1 Adopt Ordinance No. 1818 Entitled, “An Ordinance of the City Council of the City of Lodi
(Adopt) Amending Lodi Municipal Code Title 12 – Streets, Sidewalks, and Public Places – by Repealing
and Reenacting Chapter 12.07 Relating to the Lodi Tourism Business Improvement District
(LTBID)” (CLK)

M. Adjournment

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.

Randi Johl
City Clerk



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CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Quarterly Update by the Greater Lodi Area Youth Commission

MEETING DATE: Feb. 4th, 2009

PREPARED BY: Brad Vander Hamm, LYC Liaison

RECOMMENDED ACTION: Receive quarterly update from Greater Lodi Area Youth Commission (LYC).

BACKGROUND INFORMATION: The LYC desires to stay connected to the City Council and the community by having commissioners give quarterly reports on the activities of the Commission.

FISCAL IMPACT: None

FUNDING AVAILABLE: None

James M. Rodems
Community Center Director

Prepared by: Brad Vander Hamm, Liaison
Greater Lodi Area Youth Commission

APPROVED: _____
Blair King, City Manager



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CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Receive Register of Claims Dated January 8 and January 15, 2009 in the Total Amount of \$4,664,095.15

MEETING DATE: February 4, 2009

PREPARED BY: Financial Services Manager

RECOMMENDED ACTION: Receive the attached Register of Claims for \$4,664,095.15.

BACKGROUND INFORMATION: Attached is the Register of Claims in the amount of \$4,664,095.15 dated 01/08/09 and 01/15/09. Also attached is Payroll in the amount of \$1,422,207.47.

FISCAL IMPACT: n/a

FUNDING AVAILABLE: As per attached report.

Ruby R. Paiste, Financial Services Manager

RRP/rp

Attachments

APPROVED: _____
Blair King, City Manager

Accounts Payable
Council Report

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Date
Amount

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As of Thursday	Fund	Name	
01/08/09	00100	General Fund	930,361.57
	00122	Equipment Replacement Fund	30.39
	00123	Info Systems Replacement Fund	169.11
	00160	Electric Utility Fund	1,957,933.00
	00170	Waste Water Utility Fund	14,490.08
	00171	Waste Wtr Util-Capital Outlay	6,279.50
	00172	Waste Water Capital Reserve	341,360.00
	00180	Water Utility Fund	1,111.65
	00210	Library Fund	1,580.92
	00211	Library Capital Account	1,550.00
	00234	Local Law Enforce Block Grant	2,372.52
	00260	Internal Service/Equip Maint	27,739.54
	00270	Employee Benefits	441,840.22
	00300	General Liabilities	1,688.57
	00310	Worker's Comp Insurance	18,741.68
	00321	Gas Tax	821.26
	00340	Comm Dev Special Rev Fund	18,910.97
	00345	Community Center	15,447.18
	00346	Parks & Recreation	192.60
	00501	Lcr Assessment 95-1	17.00
	01211	Capital Outlay/General Fund	41.69
	01250	Dial-a-Ride/Transportation	2,247.69
	01410	Expendable Trust	6,008.41
Sum			3,790,935.55
	00184	Water PCE-TCE-Settlements	125,084.00
	00190	Central Plume	4.48
Sum			125,088.48
Total for Week			
Sum			3,916,024.03

Accounts Payable
Council Report

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As of Thursday	Fund	Name	Amount
01/15/09	00100	General Fund	337,295.06
	00103	Repair & Demolition Fund	75.00
	00130	Redevelopment Agency	1,099.60
	00160	Electric Utility Fund	31,832.77
	00161	Utility Outlay Reserve Fund	1,707.32
	00164	Public Benefits Fund	8,146.66
	00170	Waste Water Utility Fund	24,832.46
	00171	Waste Wtr Util-Capital Outlay	
	00172	Waste Water Capital Reserve	50,038.96
	00180	Water Utility Fund	8,459.70
	00181	Water Utility-Capital Outlay	9,199.18
	00182	IMF Water Facilities	6,681.90
	00210	Library Fund	12,714.68
	00211	Library Capital Account	126,759.76
	00234	Local Law Enforce Block Grant	216.27
	00235	LPD-Public Safety Prog AB 1913	137.61
	00260	Internal Service/Equip Maint	13,910.67
	00270	Employee Benefits	32,508.93
	00321	Gas Tax	8,932.50
	00325	Measure K Funds	17,746.07
	00340	Comm Dev Special Rev Fund	4,652.72
	00345	Community Center	13,477.89
	00346	Parks & Recreation	944.74
	00501	Lcr Assessment 95-1	1,387.24
	01211	Capital Outlay/General Fund	3,963.70
	01212	Parks & Rec Capital	737.15
	01250	Dial-a-Ride/Transportation	942.21
	01410	Expendable Trust	4,840.73
Sum			723,241.48
	00184	Water PCE-TCE-Settlements	15,308.29
	00190	Central Plume	9,521.35
Sum			24,829.64
Total for Week			
Sum			748,071.12

Council Report for Payroll

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Payroll	Pay Per Date	Co	Name	Gross Pay
Regular	01/11/09	00100	General Fund	935,535.42
		00160	Electric Utility Fund	164,421.32
		00164	Public Benefits Fund	5,511.75
		00170	Waste Water Utility Fund	102,137.40
		00180	Water Utility Fund	268.80
		00210	Library Fund	31,115.33
		00235	LPD-Public Safety Prog AB 1913	1,703.95
		00260	Internal Service/Equip Maint	22,898.28
		00321	Gas Tax	59,895.75
		00340	Comm Dev Special Rev Fund	30,537.45
		00345	Community Center	30,748.45
		00346	Parks & Recreation	30,571.52
		01250	Dial-a-Ride/Transportation	6,862.05
Pay Period Total:				1,422,207.47
Sum				



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CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve Minutes
a) January 20, 2009 (Shirtsleeve Session)
b) January 21, 2009 (Regular Meeting)
c) January 27, 2009 (Shirtsleeve Session)

MEETING DATE: February 4, 2009

PREPARED BY: City Clerk

RECOMMENDED ACTION: Approve the following minutes as prepared:
a) January 20, 2009 (Shirtsleeve Session)
b) January 21, 2009 (Regular Meeting)
c) January 27, 2009 (Shirtsleeve Session)

BACKGROUND INFORMATION: Attached are copies of the subject minutes marked Exhibit A through C.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Randi Johl
City Clerk

RJ/JMP

Attachments

APPROVED: _____
Blair King, City Manager

**LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, JANUARY 20, 2009**

The January 20, 2009, Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was canceled.

ATTEST:

Randi Johl
City Clerk

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JANUARY 21, 2009**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of January 21, 2009, was called to order by Mayor Hansen at 5:30 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent: None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

C-2 Announcement of Closed Session

- a) Conference with Dean Gualco, Human Resources Manager (Labor Negotiator), Regarding Lodi City Mid-Management Association Pursuant to Government Code §54957.6
- b) Prospective Lease of Approximately 10 Acres of Real Property Located at 12751 North Thornton Road, Lodi, California; the Negotiating Parties are City of Lodi and Starwood Energy Group; Government Code §54956.8
- c) Actual Litigation: Government Code §54956.9(a); One Case: City of Lodi v. Michael C. Donovan, an individual; Envision Law Group, LLP, et al., San Francisco Superior Court, Case No. CGC-05-441976
- d) Actual Litigation: Government Code §54956.9; One Application: Lance Hayden v. City of Lodi; WCAB #STK 214337 03/10/08

C-3 Adjourn to Closed Session

At 5:30 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters. The Closed Session adjourned at 6:40 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:01 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Items C-2 (a) and C-2 (b), negotiating direction was given.

Item C-2 (c) was not discussed.

In regard to Item C-2 (d), settlement authority was given to settle all current and future medical claims in the subject claim for the amount of \$100,000.

A. Call to Order / Roll call

The Regular City Council meeting of January 21, 2009, was called to order by Mayor Hansen at 7:01 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian,

Council Member Mounce, and Mayor Hansen

Absent: None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. Invocation - Pastor Bill Johnson, First United Methodist Church

C. Pledge of Allegiance

D. Presentations

D-1 Awards - None

D-2 Proclamations - None

D-3 Presentations

a) Presentation of Resolution of Appreciation to Martin Jones, Retiring Water/Wastewater Supervisor (PW)

Following introductory comments by Charlie Swimley, Water Services Manager, Mayor Hansen presented a Resolution of Appreciation to Martin Jones, Water/Wastewater Supervisor, who is retiring from the City after 27 years of service.

b) Presentation Regarding Youth Energy Summit (EUD)

Rob Lechner, Manager of Customer Services and Programs, gave a presentation regarding the Youth Energy Summit.

E. Consent Calendar (Reading: Comments by the Public; Council Action)

Mayor Hansen made a motion, second by Council Member Johnson, to approve the following items hereinafter set forth, **except those otherwise noted**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-1 Receive Register of Claims in the Amount of \$8,641,555.97 (FIN)

Claims were approved in the amount of \$8,641,555.97.

E-2 Approve Minutes (CLK)

The minutes of December 10, 2008 (Special Meeting), January 6, 2009 (Shirtsleeve Session), January 7, 2009 (Regular Meeting), January 13, 2009 (Shirtsleeve Session), and January 13, 2009 (Special Meeting) were approved as written.

E-3 Approve Implementation and Authorize Advertisement for Bids for Rejuvenation of 12,500 feet of Underground Electric Cable in Royal Crest Subdivision (EUD)

This item was pulled for further discussion by Council Member Johnson.

In response to Council Member Johnson, Electric Utility Director George Morrow stated there is now tried and tested technology available to rejuvenate old cable, which involves injecting polymer into the cable thereby forming a new insulation barrier for the older cable. Mr. Morrow stated the polymer through pressure injection will extend the life to as much as a new cable would and there would be a savings of approximately \$170,000.

In response to Council Member Johnson, Mr. Morrow stated there may be only a minor inconvenience to residents for the polymer application and related upgrades.

Council Member Johnson made a motion, second by Council Member Mounce, to approve the implementation and authorize the advertisement for bids for rejuvenation of 12,500 feet of underground electric cable in Royal Crest Subdivision.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-4 Approve Specifications and Authorize Advertisement for Bids for Traffic Signal Preventive Maintenance and Repair Program, Fiscal Year 2008-09 (PW)

Approved the specifications and authorized advertisement for bids for Traffic Signal Preventive Maintenance and Repair Program, Fiscal Year 2008-09.

E-5 Adopt Resolution Awarding Contract for Sacramento Street Water Main Installation Project, Lodi Avenue to Alley South of Lodi Avenue, to G&L Brock Construction, of Stockton (\$25,735) (PW)

Adopted Resolution No. 2009-05 awarding the contract for Sacramento Street Water Main Installation Project, Lodi Avenue to Alley South of Lodi Avenue, to G&L Brock Construction, of Stockton, in the amount of \$25,735.

E-6 Adopt Resolution Authorizing Additional Task Order with Treadwell & Rollo for Central Plume Monitoring and Reporting (\$121,000) (PW)

Adopted Resolution No. 2009-06 authorizing additional Task Order with Treadwell & Rollo for Central Plume monitoring and reporting in the amount of \$121,000.

E-7 Adopt Resolution Authorizing the City Manager to Enter into the Second Amended and Restated Metered Subsystem Aggregator Agreement with Northern California Power Agency and California Independent System Operator Corporation (EUD)

Adopted Resolution No. 2009-07 authorizing the City Manager to enter into the Second Amended and Restated Metered Subsystem Aggregator Agreement with Northern California Power Agency and California Independent System Operator Corporation.

E-8 Adopt Resolution Authorizing the City Manager to Allocate \$17,000 in Public Benefit Program Funds for the Lodi SHARE Verification Program and Authorizing the City Manager to Execute a Contract with the Lodi Salvation Army to Administer the Project (EUD)

Adopted Resolution No. 2009-08 authorizing the City Manager to allocate \$17,000 in Public Benefit Program funds for the Lodi SHARE Verification Program and authorizing the City Manager to execute a contract with the Lodi Salvation Army to administer the project.

E-9 Adopt Resolution Amending Section 4 of Traffic Resolution No. 97-148 by Approving Conversion from Angle Parking to Parallel Parking on West Side of Central Avenue from Eden Street to Alley North of Eden Street (PW)

This item was pulled for further discussion by Council Member Hitchcock.

In response to Council Member Hitchcock, Public Works Director Wally Sandelin stated the request did originate with the resident, there are no specific speed problems on Central Avenue, staff contacted businesses by going door to door and there were no objections, accidents were explored and the subject tenant had their vehicle damaged on two occasions, there was a similar recommendation in the eastside mobility report, and currently there are no traffic calming features for the corners.

Council Member Hitchcock made a motion, second by Council Member Mounce, to adopt Resolution No. 2009-09 amending Section 4 of Traffic Resolution No. 97-148 by approving conversion from angle parking to parallel parking on west side of Central Avenue from Eden Street to the alley north of Eden Street.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-10 Set Public Hearing for February 4, 2009, to Consider the Community Development Block Grant Program Consolidated Plan and Action Plan Development Process and to Receive Input Regarding Community Needs and Funding Priorities (CD)

Set public hearing for February 4, 2009, to consider the Community Development Block Grant Program Consolidated Plan and Action Plan development process and to receive input regarding community needs and funding priorities.

F. Comments by the Public on Non-Agenda Items THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES. The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Tom Alexander, representing the Boosters of Boys and Girls Sports (BOBS) organization, spoke in favor of the organization and its efforts with the community youth. Mr. Alexander discussed the need for additional lighted and above ground practice space in the City for soccer and other sports.

G. Comments by the City Council Members on Non-Agenda Items

Council Member Mounce clarified a misunderstanding with respect to a note received by a student who interviewed her regarding redevelopment and his findings regarding the same. City Attorney Schwabauer provided an explanation of information that is considered public when it is deliberated upon by a majority of the City Council as opposed to informational materials provided to a single member of the Council. Ms. Mounce expressed concerns regarding treatment of individuals providing public comment. Ms. Mounce also reported on her attendance at the League of California Cities meeting held in Stockton and efforts to encourage local electeds to work with the League on a variety of issues.

Council Member Johnson stated it was his opinion that anything introduced as a part of the discussion by a Council Member should be made available as public information regardless of whether there is a legal requirement to do so. Mr. Johnson requested that Mr. James McCarty provide copies of the reports referenced in his "Letter to the Editor" regarding redevelopment.

Council Member Hitchcock congratulated the Boosters of Boys and Girls Sports (BOBS) organization on its 50th Anniversary and Taj Khan on his election to the San Joaquin Delta College Board of Trustees. Ms. Hitchcock also expressed her concern with piecemealing DeBenedetti Park and suggested staff talk to those involved with the original project including the BOBS.

Mayor Hansen stated he is comfortable that the City Council respects citizen opinions provided under public comment while at the same time retaining the right to its own opinions. Mr. Hansen stated the previously referenced student writing the paper appreciated redevelopment. He commended the Lincoln Technical Academy on its efforts to provide training and encouraged the public to take advantage of the dental program as patients free of charge. Mr. Hansen also reported on his attendance at the City Selection Committee meeting to make Local Agency Formation Commission (LAFCO) appointments, the Energy Commission meeting in Lodi to discuss the new energy center, and the San Joaquin Council of Governments Executive and Project Delivery meetings where the key issues of discussion were sales tax decline and greenhouse gas emissions. He stated a special Northern California Power Agency meeting will occur to discuss portfolio standard requirements and climate policies. Mayor Hansen also congratulated Council Member Johnson on his appointment to the San Joaquin County Rail Commission.

In response to Council Member Johnson, City Manager King explained that LAFCO appointments are made on a rotational basis and it takes approximately seven years for an agency to get on the Commission. Mr. King stated the theory is that representation is based on the general area and not the individual cities represented by the makeup of the Commission, which is laid out by State law and the County.

H. Comments by the City Manager on Non-Agenda Items

City Manager King stated that providing openness and transparency for the public at all times is important to staff and as a result archived City Council meetings, and other pertinent information, may be found on the City's website. Mr. King encouraged citizens to visit the website as it is a resource of information.

I. Public Hearings

- I-1 Public Hearing to Allow Public Testimony Regarding the Resolution of Intention to Expand the (Introduce) Lodi Tourism Business Improvement District (LTBID) to Include Flag City Hotels within the Business Improvement District and Consider Introducing Ordinance Expanding the LTBID (CA)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to allow public testimony regarding the Resolution of Intention to expand the Lodi Tourism Business Improvement District (LTBID) to include Flag City hotels within the Business Improvement District and consider introducing ordinance expanding the LTBID.

City Attorney Schwabauer provided an overview of the proposed expansion of LTBID area to include Flag City hotels. Mr. Schwabauer specifically discussed the previous two hearings and comment period, members of the district have had an opportunity for opposition, and the effective date of the proposed ordinance.

Mayor Hansen opened the public hearing.

Ann Cerney spoke in opposition to the proposed ordinance based on concerns regarding permit applications for the White Slough Water Pollution Control Facility and the effect of the upcoming State hearing.

Mayor Hansen closed the public hearing after receiving no additional comments.

City Clerk Randi Johl reported there were no protests received orally or in writing to the proposed expansion of the LTBID to include Flag City hotels.

Mr. Schwabauer stated the State is reviewing the City's permit issued by the Regional Board with respect to White Slough and that issue is not intertwined with the proposed ordinance.

In response to Council Member Hitchcock, Mr. Schwabauer stated that, even if Flag City were to some day have more hotels than the City, which is highly unlikely because the City has already committed to providing only certain sewer services to the Flag City area and resources are not available for the County to construct additional plants, the money would remain that of the Visitors' Bureau and not the City as the City receives a weighted percentage based on the Transient Occupancy Tax.

Council Member Hitchcock made a motion, second by Council Member Johnson, to introduce Ordinance No. 1818 amending Lodi Municipal Code Title 12 Streets, Sidewalks, and Public Places by repealing and reenacting Chapter 12.07 relating to the Lodi Tourism Business Improvement District (LTBID).

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

J. Communications

J-1 Claims Filed Against the City of Lodi - None

J-2 Appointments

- a) Appointments to the Lodi Animal Advisory Commission (Thomas J. Carleton, Susan Blackston, Linda Castelanelli), Lodi Improvement Committee (Tim Mustin), Senior Citizens Commission (Mark Sey), and Recreation Commission (David Akin, Larry Long) (CLK)

Council Member Mounce made a motion, second by Council Member Hitchcock, to make the following appointments:

Lodi Animal Advisory Commission

Thomas J. Carleton, Term to expire December 31, 2010
Susan Blackston, Term to expire December 31, 2011
Linda Castelanelli, Term to expire December 31, 2011

Lodi Improvement Committee

Tim Mustin, Term to expire March 1, 2011

Senior Citizens Commission

Mark Sey, Term to expire December 31, 2012

Recreation Commission

David Akin, Term to expire December 31, 2012
Larry Long, Term to expire December 31, 2012

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

Mayor Hansen thanked Judy Bader for her years of service on the Senior Citizens Commission.

b) Reappointments to the San Joaquin County Flood Control and Water Conservation District - Water Advisory Commission (CLK)

Council Member Mounce made a motion, second by Council Member Hitchcock, to make the following reappointments to the San Joaquin County Flood Control and Water Conservation District - Water Advisory Commission: Phil Katzakian, Delegate, and Wally Sandelin, Alternate.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

J-3 Miscellaneous

a) Monthly Protocol Account Report (CLK)

Council Member Mounce made a motion, second by Council Member Johnson, to approve the cumulative Monthly Protocol Account Report through December 31, 2008.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

K. Regular Calendar

K-1 Adopt Resolution Authorizing Purchase Agreement for City-Owned Property at 217 East Lockeford Street (CM)

NOTE: Due to a potential conflict of interest based on a real estate matter through his spouse, Mayor Pro Tempore Katzakian abstained from discussion and voting on this matter and vacated his seat at the dais.

City Manager King briefly introduced the subject matter of the purchase agreement for property located at 217 East Lockeford Street. Mr. King specifically discussed the current status and proposal for the sale of the City-owned property on Lockeford Street, the previously adopted resolution for the sale of certain assets, the Planning Commission finding of consistency with the General Plan, offer to sell the property to the Eagles Lodge, the sale terms including a purchase price of \$355,000 total cash transaction with a \$10,000 deposit amount, provision regarding if pertinent entitlements are not provided by August that the sale would be terminated and deposit returned, broker fees to be paid out of the sale proceeds, and the application as General Fund revenue.

In response to Council Member Hitchcock, Mr. Schwabauer provided an overview of the surplus property process, including inventory of the property and making a finding stating it is surplus property. Mr. Schwabauer stated the subject property is not surplus property because it has not been declared as such and has not gone through the relevant process. Mr. Schwabauer stated that, while the property was not put out to bid as surplus property, notice was provided to brokers that the property was available.

In response to Council Member Hitchcock, Mr. King stated general notice was given to commercial brokers and a year later a specific broker was used to market the eight-acre property.

In response to Council Member Hitchcock, Mr. Schwabauer stated an appraisal was completed some time ago and a zoning change option may apply. Interim Community Development Director Rad Bartlam stated it would be up to the Eagles Lodge to determine what kind of a zoning change they may need because they may not need one depending upon where they build.

In response to Council Member Hitchcock, Mr. Bartlam stated there is a M1 designation on both sides and it is possible that this is the designation the Lodge may seek. Mr. Schwabauer stated the term is only applicable to zoning that is required to build, not preferred.

In response to Council Member Johnson, Mr. King stated several properties were previously put out to the public including the subject property, general interest has dwindled over time, and the property values have declined since the appraisal.

General discussion commenced between the City Council regarding the surplus process, utilization of the MLS for commercial properties, the comfort level with public exposure of the availability of the property, and the process for the proposed sale.

In response to Council Member Mounce, Mr. Schwabauer stated the property was forfeited to the City through a foreclosure on a lien and he was not sure of what the cost was to demolish the previous damaged structure on the site.

Wayne Craig of Craig Realty provided an overview of the proposal. Mr. Craig specifically

discussed the original contact with the City for the property for a Department of Motor Vehicles (DMV) relocation, the site was too small for DMV, Ms. Katzakian's referral of the clients and not the property, approach to City of Eagles concept for lodge site, original offer and counter offer proposals, consideration before Council now, sensitivity to the openness of the process, and the Eagles intent to only build in proposed areas which may not require additional zoning.

In response to Mayor Hansen, Mr. Craig stated the current concept is to build a 5,000 square foot lodge, landscape the larger area for an outside area, and construct a parking area.

In response to Council Member Hitchcock, Mr. Craig stated Reynolds Ranch is not involved in any way with the current Eagles Lodge proposal.

In response to Ann Cerney, Mr. Schwabauer provided an overview of the surplus process, stating the process does not require an MLS listing or specific methods for advertising of the property.

Mayor Hansen made a motion, second by Council Member Mounce, to adopt Resolution No. 2009-10 authorizing the purchase agreement for City-owned property at 217 East Lockeford Street.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Council Member Mounce, and Mayor Hansen

Noes: Council Member Hitchcock

Abstentions: Mayor Pro Tempore Katzakian

Absent: None

K-2 Adopt Resolution Approving Consultant Services Contract with Konradt Bartlam to Serve as Community Development Director (CM)

City Manager King briefly introduced the subject matter of the proposed agreement with Konradt Bartlam to serve as Interim Community Development Director for a term of 12 months at \$90 per hour for a minimum of 24 hours per week with office hours Tuesday through Thursday and attendance at Planning Commission and City Council meetings as necessary while being available for other tasks. Mr. King stated the contract amount is in the budget.

Council Member Mounce stated she will not be voting in favor of the agreement because she would like Mr. Bartlam to be employed full-time as an employee of the City.

Mayor Hansen made a motion, second by Mayor Pro Tempore Katzakian, to adopt Resolution No. 2009-11 approving consultant services contract with Konradt Bartlam to serve as Community Development Director.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: Council Member Mounce

Absent: None

K-3 Discuss and Endorse Potential Economic Stimulus Projects (CM)

City Manager King provided an overview of the federal government economic stimulus package and proposed response to a request for "shovel-ready" projects.

Deputy City Manager Jordan Ayers specifically discussed the process of collecting a list of "shovel ready" projects from various departments, estimates related to the proposed projects, job stimulation numbers, the lack of a clear understanding of exactly what type of funding may be available and the strings attached, review of the projects and overall statistics for job creation, and project affects on the community.

In response to Council Member Mounce, Mr. Ayers stated the \$31 million estimated figure was a combined total from Public Works and Parks and Recreation. Mr. King stated the Council to date has looked at the Americans with Disabilities piece and the \$31 million figure likely represents the complete renovation number. Mr. Ayers confirmed that the \$31 million figure was likely the "pie in the sky" number for the entire facility.

In response to Mayor Pro Tempore Katzakian, Mr. Ayers stated the City's deadline for submission is January 30, 2009, and follow-up dates have not yet been provided to the City.

In response to Council Member Johnson, Mr. King stated in addition to the San Joaquin Partnership the City has also received similar requests from the National League of Cities and for the One Voice trip.

Mayor Hansen and Council Member Hitchcock suggested listing the Lodi Lake embankment improvements as a separate project.

Council Member Mounce made a motion, second by Council Member Hitchcock, to endorse the potential Economic Stimulus projects as recommended and set forth the Lodi Lake embankment project as a separate project.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

K-4 Direct City Manager to Research and Recommend Leveling Mechanism for the Energy Cost Adjustment (ECA) and, in the Interim, to Implement a Maximum Level for the ECA of \$0.025 per Kilowatt-Hour Beginning in February 2009 (EUD)

City Manager King briefly introduced the subject matter of the Energy Cost Adjustment (ECA).

Electric Utility Director George Morrow provided a PowerPoint presentation regarding the ECA. Mr. Morrow specifically discussed what is the ECA, Fitch report excerpt, Standard & Poors excerpt, LODI ECA, simplified formula, ECA variability, issue of exceeding upper range, actual ECA to date, ECA levels, cap impact, and recommendation regarding the same.

In response to Council Member Hitchcock, Mr. Morrow stated the ECA trend should remain the same for the next year or so and then should get lower as the debt service is paid off. Mr. Morrow stated the ECA collects for normal sales about \$39.5 million and this year it has to collect more because there was only so much in the base.

In response to Council Member Hitchcock, Mr. Morrow stated individuals that do not pay their bills are not factored into the ECA, as there is a separate accounting for that.

Discussion ensued between Council Member Johnson and Mr. Morrow regarding the Market Cost Adjustment first being created when the market was highly unpredictable, currently 90% to 95%

of energy is bought before it is needed on the market, the variable with the Northern California Power Agency (NCPA), how much flexibility is actually needed in light of what is knowingly being purchased, the monthly variable of a price, and the ECA not necessarily representing the purchase power alone.

In response to Council Member Johnson, Mr. Morrow stated there is a need for some predictability, smoothing will help provide budgeting, currently the cost for January is collected in January, and the financial community approving of the City's cash not being floated.

City Manager King provided an overview of the proposed recommendation before the City Council to review the ECA increases and consider a cap while staff does further research.

In response to Mayor Pro Tempore Katzakian, Mr. Morrow confirmed that usage is a big fluctuation factor, some costs vary monthly, typical summer and winter sales vary by kilowatt basis, and the cap proposal buys staff some time to look at other ideas to minimize increases in the summer bills.

In response to Mayor Pro Tempore Katzakian, Mr. Morrow stated the open position is generally larger in low low periods, averaging 5% to 10 %, and the actual costs predicted on a monthly basis will be very close to NCPA budget.

In response to Council Member Hitchcock, Mr. Morrow stated there is a comfort level with the rating agencies when the Electric Utility collects as it charges.

In response to Council Member Mounce, Mr. Morrow stated he is not aware of what other communities are specifically doing and in his past experience jurisdictions have had this type of a monthly program. Council Member Mounce asked staff to review what other communities do with respect to smoothing.

In response to Council Member Johnson, Mr. Morrow confirmed that the request was to allow staff to explore options and consider a cap in the meantime. Mr. Johnson stated he is not sure about implementing a cap pending review.

John Johnson spoke in opposition to the cap, stating it is important for the Electric Utility to remain healthy and keep its reserve in place and recover its costs. Mr. Johnson stated he would like to see some sort of a planning tool for the residential model, with a review system quarterly, monthly, or annually and estimates should be provided to the public accordingly. Council Member Hitchcock suggested providing notice to the public as well through the bill or in some other manner. Council Member Mounce suggested some sort of conservation alert.

In response to Council Member Mounce, Mr. Johnson and Mr. Ayers stated they will forward a copy of the minutes from the Budget and Finance Committee meetings to the City Council.

Mayor Hansen and Mayor Pro Tempore Katzakian suggested the cap is a good measure for residents pending staff review of other options to keep the ECA stabilized.

Eunice Friederich spoke regarding her concerns for residents on the east side of town who are on fixed incomes and cannot afford to utilize, or do not have centralized air and heating, because of the rising cost of electricity.

Council Member Johnson made a motion, second by Council Member Hitchcock, to direct the City Manager to research and recommend leveling mechanism for the ECA.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, and Council Member Mounce

Noes: Mayor Pro Tempore Katzakian, and Mayor Hansen

Absent: None

K-5 Review and Endorse Economic Development/Owner Participation Policies and Conceptual Three-Year Program Budget for the Lodi Community Improvement Project (CM) NOTE: Joint action of the Lodi City Council and Redevelopment Agency

This item was continued to the next regularly scheduled meeting of February 4, 2009, as the first item on the Regular Calendar.

K-6 Approve Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation and Various Other Cases being Handled by Outside Counsel (\$119,670.48) (CA)

In response to Council Member Hitchcock, Mr. Schwabauer stated the individual expert references include those who will testify regarding environmental law, ethics, and finance.

Council Member Hitchcock made a motion, second by Council Member Mounce, to approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel in the amount of \$119,670.48, as detailed further in the staff report.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

L. Ordinances - None

M. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 11:00 p.m.

ATTEST:

Randi Johl
City Clerk

**LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, JANUARY 27, 2009**

The January 27, 2009, Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was canceled.

ATTEST:

Randi Johl
City Clerk



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Approving Purchase of John Deere Backhoe/Loader from Pape Machinery, of French Camp, for Replacement of Vehicle No. 04-128 and Appropriating Funds (\$100,000)

MEETING DATE: February 4, 2009

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution approving the purchase of a John Deere Backhoe/Loader from Pape Machinery, of French Camp, for the replacement of Vehicle No. 04-128 and appropriating funds in the amount of \$100,000.

BACKGROUND INFORMATION: Backhoe/Loader Unit No. 04-128 was purchased in 1991 and currently has 5,519 hours of service logged. The utility of the backhoe/loader is primarily for sidewalk and concrete replacement work. Over the past two years, the unit has experienced over a month of down time. The cost of repairs has been \$57,000 since its purchase, with \$37,800 accumulated over the past two years. It is one of 90 pieces of equipment for the Streets and Drainage Division that is overdue for replacement.

The Streets and Drainage Division recommends replacing the backhoe/loader with a more robust unit capable of meeting the demands of the work. The recommended unit has a larger backhoe size, and it accommodates optional equipment that may be purchased in the future. The purchase of a John Deere backhoe would be accomplished under the California Multiple Award Schedule (CMAS). The actual cost of the backhoe is \$90,619 plus tax and approximately 2% must be paid to the State for use of the CMAS contract price. The purchase of the equipment though CMAS is accomplished by a purchase order to the supplier which takes care of the paperwork to the State of California.

Per Lodi Municipal Code §3.20.045, State and Local Agency Contracts, the bidding process may be waived when it is advantageous for the City, with appropriate approval by City Manager and City Council, to use contracts that have been awarded by other California public agencies, provided that their award was in compliance with their formally-adopted bidding or negotiation procedures. Staff recommends purchase of the John Deere backhoe using CMAS Contract Number 4-08-23-0022A.

FISCAL IMPACT: Replacement of Vehicle No. 04-128 will save in repair costs and create a safer and more efficient working environment for the equipment operators.

FUNDING AVAILABLE: Appropriation from the Street Vehicle Replacement Fund (Measure K) (3251201) in the amount of \$100,000.

Kirk Evans, Budget Manager

F. Wally Sandelin
Public Works Director

Prepared by Curtis Juran, Assistant Streets & Drainage Manager
FWS/GMB/CS/dsg

cc: George M. Bradley, Streets & Drainage Manager
Dennis Callahan, Fleet and Facilities Manager

Curtis Juran, Assistant Streets & Drainage Manager

APPROVED: _____
Blair King, City Manager

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING
PURCHASE OF JOHN DEERE BACKHOE/LOADER AND
FURTHER APPROPRIATING FUNDS

=====

WHEREAS, Backhoe/Loader Unit No. 04-128 was purchased in 1991 and currently has 5,519 hours of service logged. The utility of the backhoe/loader is primarily for sidewalk and concrete replacement work. Over the past two years, the unit has experienced over a month of down time. The cost of repairs has been \$57,000 since its purchase, with \$37,800 accumulated over the past two years.; and

WHEREAS, the Streets and Drainage Division recommends replacing the backhoe/loader with a more robust unit capable of meeting the demands of the work. The recommended unit has a larger backhoe size, and it accommodates optional equipment that may be purchased in the future; and

WHEREAS, per Lodi Municipal Code §3.20.045, "State and Local Agency Contracts," the bidding process may be waived when it is advantageous for the City, with appropriate approval by City Manager and City Council, to use contracts that have been awarded by other California public agencies, provided that their award was in compliance with their formally-adopted bidding or negotiation procedures; and

WHEREAS, the purchase of a John Deere backhoe would be from Pape Machinery, of French Camp, California, through the California Multiple Award Schedule (CMAS) with the actual cost of the unit being \$90,619 plus tax and approximately 2% would be paid to the State for use of the CMAS contract.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the purchase of a John Deere Backhoe/Loader from Pape Machinery, of French Camp, California, in the amount of \$90,619 plus tax, through California Multiple Award Schedule Contract No. 4-08-23-0022A, with approximately 2% being paid to the State of California for use of the CMAS contract; and

BE IT FURTHER RESOLVED that the City Council does hereby appropriate funds in the amount of \$100,000 from Street Vehicle Replacement Fund (Measure K) monies for this purchase.

Dated: February 4, 2009

=====

I hereby certify that Resolution No. 2009-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held February 4, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2009-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Accept Improvements Under Contract for the Asphalt Rubber Cape Seal, Various Streets, 2008 Project

MEETING DATE: February 4, 2009

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Accept the improvements under the Asphalt Rubber Cape Seal, Various Streets, 2008 Project contract.

BACKGROUND INFORMATION: The project was awarded at the July 2, 2008 Council meeting to International Surfacing Systems, Inc., of Modesto, in the amount of \$1,059,659.50.

This project consisted of the rehabilitation and resurfacing of approximately 135,500 square yards of various City streets with a layer of an asphalt rubberized chip seal, followed by a layer of slurry seal, and other incidental and related work, all as shown on the plans and specifications for the project.

The final contract price was \$1,067,834.54. The difference between the contract amount and the final contract price was due to minor differences between the engineer's estimate of work and the actual measured quantities.

The Public Works Department also applied for a rubberized asphalt concrete chip seal grant from the California Integrated Waste Management Board. The City will receive \$134,875 from this grant to offset a portion of the project costs.

Following acceptance by the City Council, as required by law, the City Engineer will file a Notice of Completion with the County Recorder's office. The notice serves to notify vendors and subcontractors that the project is complete and begins their 30-day period to file a stop notice requiring the City to withhold payments from the prime contractor in the event of a payment dispute.

FISCAL IMPACT: There should be a slight decrease in short-term street maintenance costs.

FUNDING AVAILABLE: Not applicable.

F. Wally Sandelin
Public Works Director

Prepared by Wes Fujitani, Senior Civil Engineer
FWS/WF/pmf
cc: Streets and Drainage Manager

APPROVED: _____
Blair King, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt resolution awarding the contract for the Blakely Park North Pool deck improvements, 1050 S. Stockton Street to Greg Carpenter Concrete, Inc. of Lodi, CA (\$44,917.50)

MEETING DATE: February 4, 2009

PREPARED BY: Interim Parks and Recreation Director

RECOMMENDED ACTION: Adopt a resolution awarding the contract for the Blakely Park North Pool deck improvements, 1050 S. Stockton Street to Greg Carpenter Concrete, Inc., of Lodi, CA in the amount of \$44,917.50.

BACKGROUND INFORMATION: The north pool deck work consists of providing all labor, materials and equipment to install approximately 7,350 square feet of polymer concrete trowel knockdown finish over the existing concrete pool decking. Work also includes adjustments of existing utility service box lids within pool deck area, grinding all existing concrete construction joints, pressure washing, 225 lineal feet of crack repair, installation of 20 8-inch square ceramic tile pool markers, installation of color coat and clear sealers.

The project was advertised in two local area newspapers and 10 building exchanges from November 22, 2008 through December 31, 2008. The bid opening took place on January 14, 2009. The bid specifications stipulated that all general contractors interested in bidding this project were required to be in attendance at the mandatory job walk in order to be eligible to bid the project. The mandatory job walk is an opportunity for all contractors to walk through the project with City staff, ask questions regarding the scope of work, and review the existing site conditions. There were 16 general contractor plan holders for this project and 11 general contractors who attended the mandatory job walk.

The City received the following bids for this project:

<u>Bidder</u>	<u>Location</u>	<u>Bid</u>
Engineer's Estimate		\$90,400.00
Greg Carpenter Concrete, Inc.	Lodi	\$44,917.50
Diede Construction, Inc.	Woodbridge	\$50,130.00
100% Concrete, Inc.	Ripon	\$53,370.00
McFadden Construction	Stockton	\$59,212.50
South Coast Pool Plastering	Lakeside	\$73,997.50

APPROVED: _____
Blair King, City Manager

FISCAL IMPACT: There is no direct impact to the Parks and Recreation Department budget for the installation of the new polymer concrete finish. Community Development Block Grant funds will be supporting the installation of this project in its entirety.

FUNDING: Community Development Block Grant Allocation: \$98,000

Kirk Evans, Management Analyst

James M. Rodems
Interim Parks and Recreation Director

Prepared by Steve Virrey, Park Project Coordinator

JMR\JW\tl

cc: City Attorney
Steve Dutra, Parks Superintendent
Wes Fujitani, Sr. Civil Engineer
Joseph Wood, Community Improvement Manager

RESOLUTION NO. 2009-_____

A RESOLUTION OF THE LODI CITY COUNCIL
AWARDING THE CONTRACT FOR THE BLAKELY PARK
NORTH POOL DECK IMPROVEMENTS, 1050 S.
STOCKTON STREET (\$44,917.50)

=====

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on January 14, 2009, at 11:00 a.m., for the north pool deck improvements at Blakely Park, 1050 S. Stockton Street, described in the specifications therefore approved by the City Council on November 19, 2008; and

WHEREAS, said bids have been compared, checked, and tabulated and a report thereof filed with the City Manager as follows:

Bidder	Location	Bid
Engineer's Estimate		\$90,400.00
Greg Carpenter Concrete, Inc.	Lodi	\$44,917.50
Diede Construction, Inc.	Woodbridge	\$50,130.00
100% Concrete, Inc.	Ripon	\$53,370.00
McFadden Construction	Stockton	\$59,212.50
South Coast Pool Plastering	Lakeside	\$73,997.50

WHEREAS, staff recommends award of the contract to Greg Carpenter Concrete, Inc., of Lodi, California, in the amount of \$44,917.50.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby awards the contract for the north pool deck improvements at Blakely Park, 1050 S. Stockton Street, to Greg Carpenter Concrete, Inc. of Lodi, California, in the amount of \$44,917.50.

Dated: February 4, 2009

=====

I hereby certify that Resolution No. 2009-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held February 4, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2009-_____



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Report on Contract Change Order No. 2 for Lodi Lake Boathouse/Discovery Center Improvements, 1101 West Turner Road

MEETING DATE: February 4, 2009

PREPARED BY: Interim Parks and Recreation Director

RECOMMENDED ACTION: Report on Contract Change Order No. 2 for Lodi Lake Boathouse/Discovery Center Improvements, 1101 West Turner Road.


BACKGROUND INFORMATION: This information is being given to the City Council in accordance with the Contract Change Order Policy approved by Resolution 85-72. One of the requirements of this policy is that we inform the City Council of all change orders where the total exceeds \$25,000.

Contract Change Order No. 1 was presented to the City Council at its November 19, 2008, meeting and was in the amount of \$49,680.25. Contract Change Order No. 2, approved by the City Manager, is in the amount of \$34,484.50, which is 10.2% of the original contract. Change Order No. 2 also extends the contract completion date by five working days. The original contract price was \$338,250.35. Contract Change Order No. 2 includes the additional cost to clean-up and reinforce the existing bulkhead along the edge of the lake (\$12,892), provide additional concrete work and guardrails at the Discovery Center to meet Americans with Disabilities Act requirements (\$8,726), powder coat the railings and add improvements to the existing gate (\$6,596), and add a new handicap ramp at the Beach House (\$2,876). The remaining items on Contract Change Order No. 2 address miscellaneous changes to the contract and include removal and replacement of unsuitable material in the concrete ramp subgrade, the additional cost to change out damaged pavers, and furnish a flap gate at the storm drain outlet.

FISCAL IMPACT: The \$34,484.50 is slated to come from state grant funds. No General Fund dollars are required for these items.

FUNDING AVAILABLE: There were sufficient funds budgeted in the original project appropriation to cover these change orders. However, until State grant funds are released, park impact fees will temporarily cover expenses.

Kirk Evans, Management Analyst


James M. Rodems
Interim Parks and Recreation Director

cc: Steve Dutra, Parks Superintendent
Wes Fujitani, Sr. Civil Engineer

APPROVED: _____
Blair King, City Manager



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Appointing New Representatives to the Lodi Tourism Business Improvement District Advisory Board

MEETING DATE: February 4, 2009

PREPARED BY: City Clerk

RECOMMENDED ACTION: Adopt resolution appointing new representatives to the Lodi Tourism Business Improvement District (LTBID) Advisory Board.

BACKGROUND INFORMATION: On September 15, 2004, the City Council adopted Resolution 2004-192 (attached as Exhibit A) appointing seven members to the LTBID Advisory Board in accordance with Lodi Municipal Code Chapter 12.07.100, "Levy of Assessment—Use of Revenue—Authority." Since that time, changes have occurred in the membership of the Board and it is necessary to update the list of members. The following five names have been recommended by Nancy Beckman, Executive Director of the Lodi Conference and Visitors' Bureau, and it is recommended that Council adopt the attached resolution appointing the following members to serve as the LTBID Advisory Board.

Heather Reagan	Wine and Roses
Beth Kim	Hampton Inn & Suites
Sonny Patel	Wine Country Inn
Sunil Yadav	Modern Motor Lodge
Marty Willett	G-REM

FISCAL IMPACT: N/A

FUNDING AVAILABLE: N/A

Randi Johl
City Clerk

RJ/JMP

Attachments

APPROVED: _____

Blair King, City Manager

RESOLUTION NO. 2004-192

A RESOLUTION OF THE LODI CITY
COUNCIL APPOINTING LODI TOURISM
BUSINESS IMPROVEMENT DISTRICT
ADVISORY BOARD

WHEREAS, the Lodi City Council adopted a Resolution of Intention to form the Lodi Tourism Business Improvement District (LTBID) at its meeting held September 15, 2004; and

WHEREAS, the Lodi City Council now desires to appoint an Advisory Board for the LTBID; and

WHEREAS, the following is a list of names that have been recommended by Nancy Beckman, Executive Director of the Lodi Conference and Visitors' Bureau to sit on the Advisory Board:

Tabitha Freytag	Wine and Roses
Beth Kim	Comfort Inn
Sonny Patel	Wine Country Inn
Sunil Yadav	Modern Motor Lodge
Mary Wallace	Frames & Fine Things
Kelli Mettler	Wine & Visitor Center
Betty Hansen	Jewel Fine Wines

NOW, THEREFORE, BE IT RESOLVED that the Advisory Board is hereby appointed as recommended above.

Dated: September 15, 2004

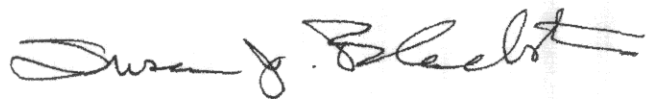
I hereby certify that Resolution No. 2004-192 was passed and adopted by the City Council of the City of Lodi in a regular meeting held September 15, 2004, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None



SUSAN J. BLACKSTON
City Clerk

2004-192

RESOLUTION NO. 2009-_____

A RESOLUTION OF THE LODI CITY COUNCIL RESCINDING
RESOLUTION 2004-192 APPOINTING THE LODI TOURISM BUSINESS
IMPROVEMENT DISTRICT ADVISORY BOARD AND APPOINTING NEW
REPRESENTATIVES TO SERVE ON THE BOARD

=====

WHEREAS, the Lodi City Council adopted a Resolution of Intention to form the Lodi Tourism Business Improvement District (LTBID) at its meeting held September 15, 2004; and

WHEREAS, the Lodi City Council adopted Resolution 2004-192 appointing the Advisory Board for the LTBID; and

WHEREAS, it is necessary to update the list of Board members due to recent changes. The following names have been recommended by Nancy Beckman, Executive Director of the Lodi Conference and Visitors' Bureau, to sit on the Advisory Board:

Heather Reagan	Wine and Roses
Beth Kim	Hampton Inn & Suites
Sonny Patel	Wine Country Inn
Sunil Yadav	Modern Motor Lodge
Marty Willett	G-REM

NOW, THEREFORE, BE IT RESOLVED by the Lodi City Council that it does hereby appoint the individuals listed above to serve on the LTBID Advisory Board as recommended.

Date: February 4, 2009

=====

I hereby certify that Resolution No. 2009-____ was passed and adopted by the Lodi City Council in a regular meeting held _____, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2009-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Set the Public Hearing for February 18, 2009, to review and approve both the joint-application for Neighborhood Stabilization Program funding through the California Department of Housing and Community Development, and the Memorandum of Understanding for all participating jurisdictions.

MEETING DATE: February 4, 2009

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Set the Public Hearing for February 18, 2009, to review and approve both the joint application for Neighborhood Stabilization Program funding through the California Department of Housing and Community Development, and the Memorandum of Understanding for all participating jurisdictions.

BACKGROUND INFORMATION: In July 2008, Congress passed the Housing and Economic Recovery Act of 2008, which appropriated \$3.92 billion for the Neighborhood Stabilization Program (NSP). The goal of the NSP funding is to promote investment in neighborhoods suffering from high rates of foreclosure and abandonment.

NSP Funding Sources

NSP funds are being distributed by both the U.S. Department of Housing and Urban Development (HUD) and the California Department of Housing and Community Development (HCD). Funds may be received from each source without effect on the other source.

San Joaquin County Allocation

San Joaquin County received a \$9 million allocation directly from HUD to address problems being faced throughout the County. San Joaquin County designated approximately \$578,000 for the City of Lodi. On November 18, 2008, the Council recommended those funds be used for the acquisition, rehabilitation, and resale of foreclosed properties. The City also may have an opportunity to secure a portion of the \$2.2 million set-aside for very low-income housing.

HCD Allocation

On December 1, 2008, HCD submitted its NSP Plan to HUD. Because HCD felt that HUD's formula did not adequately factor foreclosure rates in certain cities whose counties received direct funding, HCD allocated additional funds to many of these cities. HCD's NSP Plan requires that jurisdictions with preliminary allocations partner with other cities within the same county in order to receive funding. In order to receive \$871,252 in NSP funding, Lodi has the option of partnering with the following cities in order to submit an application totaling at least \$1 million (the minimum to apply):

Escalon	\$146,043
Lathrop	\$696,139
Ripon	\$221,478

APPROVED: _____
Blair King, City Manager

Additionally, HCD will have approximately \$37 million available for housing projects that serve very low-income households and meet NSP requirements. These funds will be made available in an over-the-counter application process.

HCD NSP Process

The process for receiving HCD NSP funding is somewhat different than the process for securing funds through the County. HCD requires that all applicant jurisdictions hold two public hearings: one to solicit public comment on potential uses of funds and a second to approve the application. Feedback received at the first public hearing held on January 7, 2009, is being incorporated into the application that will be brought back before Council at the second public hearing on February 18, 2009.

HCD had anticipated releasing a Notice of Funding Availability in January 2009, with applications due in February 2009. As of this date, that release will either be in the last week of January or the first week in February. The quick timeframe is driven by the need to expend funds within 18 months, roughly by June 2010, a deadline set forth by HUD. In order to secure the funds and increase the City's ability to expend them quickly, staff is currently working with Escalon, Lathrop, and Ripon to complete a Memorandum of Understanding that will be up for review at the second public hearing as well.

FISCAL IMPACT: Any future allocations of NSP funds will have no impact on the City General Fund.

FUNDING AVAILABLE: N/A

Konradt Bartlam
Interim Community Development Director



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Quarterly Report of Purchases Between \$5,000 and \$20,000

MEETING DATE: February 4, 2009

PREPARED BY: Randy Lipelt Buyer

RECOMMENDED ACTION: Information only. This report is made to the City Council in accordance with Lodi Municipal Code §2.12.060.

BACKGROUND INFORMATION: During the 4th calendar quarter of 2008, the following purchases were awarded. Background information for each purchase is attached as Exhibits A through AA

Exh	Date	Contractor	Project	Award Amt.
A	10/01/08	Coombs-Hopkins & DC Frost	White Slough UV Lamp Replacement	\$18,252.00
B	10/03/08	Intraline Inc	Electric Inventory	\$6,596.02
C	10/06/08	Survallent Technology	City Utility SCADA System	\$5,320.28
D	10/15/08	IKON Office Solutions	Purchase of Photocopy Machine	\$5,416.60
E	10/22/08	General Pacific	Purchase Electric Meters	\$19,179.50
F	11/03/08	WGR Southwest Inc	PCE/TCE Remediation Project	\$9,781.00
G	11/05/08	Steam Cleaners Stockton	Transit Shop Pressure Washer	\$7,600.00
H	11/06/08	Tim Muhlbeir Painting	Lodi Lake Park Painting Improvements	\$8,400.00
I	11/03/08	General Pacific	Purchase Electric Meters	\$9,766.46
J	11/17/08	D & V Machine Shop & Pump	White Slough Irrigation Pump Repair	\$6,315.99
K	11/05/08	Envelope Products Company	Utility Bill/Payment Envelope	\$8,020.22
L	11/05/08	Transformer Testing & Repair	Transformer Repair	\$6,400.00
M	11/07/08	Golf Ventures West	Cushman Utility Vehicle	\$19,152.57
N	10/13/08	Exterior Design Inc.	Landscape Plant Replacement	\$9,420.00
O	11/13/08	Coombs-Hopkins & DC Frost	White Slough UV Lamp Replacement	\$18,252.00
P	11/14/08	Holmes International	Statewide General Waste Discharge Requirements-Sanitary Sewer Management Plan Development Phase 2	\$13,262.00
Q	11/17/08	GEXPRO	Electric Inventory	\$18,717.04
R	11/17/08	Bobcat Central Inc.	Kubota Utility Vehicle	\$19,254.67
S	11/21/08	Airgas NCN	Safety Supplies	\$7,473.71
T	11/21/08	Pyro Combustion of California	Annual Boiler Maintenance Contract	\$5,575.00
U	11/20/08	Netversant-Sacramento	Lodi Lake Boat House/Discovery Center Improvements	\$5,351.73
V	12/02/08	E.F. Kludt and Sons	White Slough Emergency Generator Diesel Purchase	\$17,724.88
W	12/02/08	Commerce Printing Services	The City of Lodi-Community Arts Directory/Winter-Spring 2009 Issue	\$10,679.00
X	12/11/08	David F O'Keefe Company	Lodi Lake Boat House/Discovery Center Improvements	\$9,560.97
Y	12/11/08	Cybernetics	Storage Area Network	\$14,032.00
Z	12/16/08	Angus Hammer Inc	Antivirus Renewal	\$5,644.00
AA	12/17/08	Pyro Combustion of California	White Slough Boiler Re-tube	\$7,450.00

APPROVED: _____
Blair King, City Manager

FISCAL IMPACT:

Varies by project. All purchases were budgeted in the 2008-2009 Financial Plan.

FUNDING:

Funding as indicated on Exhibits.

Kirk Evans, Budget Manager

EXHIBIT A

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: White Slough UV Lamp Replacement
DEPARTMENT: Public Works
CONTRACTOR Coombs-Hopkins & DC Frost
AWARD AMOUNT: \$18,252.00
DATE OF RECOMMENDATION: September 4, 2008

BIDS OR PROPOSALS RECEIVED:
Coombs-Hopkins & DC Frost \$18,252.00

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

UV Lamps, ballast, and quartz sleeves are used in the wastewater treatment process to disinfect treated wastewater before it is discharged to Dredger Cut or used by our customers (NCPA and San Joaquin Vector Control District). Coombs-Hopkins & DC Frost are the manufacture’s representatives for Trojan Technologies, Inc., who is the manufacture of our UV system and the sole supplier for all the parts utilized in their system. The UV lamps being purchased will be part of an ongoing operations and maintenance costs as they near their operational life expectancy of 12,000 hours. Future purchases will follow as the remaining lamps reach their life expectancy. The lamp replacement costs have been anticipated and are included in the 2008-2009 Wastewater Budget.

FUNDING: 170403.7331

Prepared by: Del Kerlin

Title: Wastewater Treatment
Superintendent

Reviewed by: _____

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Electric Inventory
DEPARTMENT: Electric Utility Department
CONTRACTOR Intraline Inc.
AWARD AMOUNT: \$6,596.02
DATE OF RECOMMENDATION: October 3, 2008

BIDS OR PROPOSALS RECEIVED:	Wire & Bolts	Wire Only
Intraline Inc	\$6,596.02	\$6,443.45
Gexpro		\$6,896.00
HD Supply Portland		\$7,439.06
HD Supply Benicia		\$6,465.00

“NO BID” or NO RESPONSE RECEIVED:
Wesco Distribution
General Pacific Inc.

BACKGROUND INFORMATION & BASIS FOR AWARD:

These items are for the Electric Inventory. They will be used in new construction. They will also be used for maintenance of the City of Lodi Electric system. Intraline Inc. was the low responsible bidder.

FUNDING: 160.1496

Prepared by: Randy Lipelt

Title: Buyer

Reviewed by: _____

Purchase Order No.: 17995

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: City Utility SCADA System
DEPARTMENT: Electric Utility Department
CONTRACTOR Survalent Technology
AWARD AMOUNT: \$5,320.28
DATE OF RECOMMENDATION: October 6, 2008

BIDS OR PROPOSALS RECEIVED:
Survalent Technology

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

There is a need for advance training and modifications to the SCADA System. The system has advanced features that would be beneficial to the Utility additionally the system operators need further training to get comfortable with the new system. We also need to make modifications to the system to allow interfacing to the new RTU's currently being installed at the Substations.

FUNDING: 160653.7323

Prepared by: Abel Palacio

Title: Utility Operations Supervisor EUD

Reviewed by: _____

Purchase Order No.: 17999

EXHIBIT D

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Purchase of Photocopy Machine
DEPARTMENT: Purchasing
CONTRACTOR IKON Office Solutions
AWARD AMOUNT: \$5,416.60
DATE OF RECOMMENDATION: October 15, 2008

BIDS OR PROPOSALS RECEIVED:

IKON Office Solutions is honoring the same price as bid \$5,416.60
In 2007 for the original Master Sale Agreement dated
07/19/07 as approved by Resolution No. 2007-127

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

Canon IR 3025 Copier is replacing an existing copy machine for Purchasing. The current machine has reached the end of its lifespan, causing frequent paper jams and breakdowns. This machine is unable to have a maintenance contract due to its age.

FUNDING: 1220501.7701

Prepared by: Randy Lipelt

Title: Buyer

Reviewed by: _____

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Meters Purchased
DEPARTMENT: Electric
CONTRACTOR General Pacific
AWARD AMOUNT: \$19,179.50
DATE OF RECOMMENDATION: October 22, 2008

BIDS OR PROPOSALS RECEIVED:
General Pacific-Per Meter Price \$445.00

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:
Sole Supplier (Per Council Res 99-124)

FUNDING: 160613.7319

Prepared by: Ken Berg

Title: LEUD Metering

Reviewed by: _____

Purchase Order No.: 18039

EXHIBIT F

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: PCE/TCE Remediation Project
DEPARTMENT: Public Works
CONTRACTOR WGR Southwest Inc
AWARD AMOUNT: \$9,781.00
DATE OF RECOMMENDATION: November 3, 2008

BIDS OR PROPOSALS RECEIVED:

WGR proposal and scope of work letter dated 10/29/08 for Remediation Project Review and Evaluation of PCE/TCE Groundwater Plume running underneath the downtown area.

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

Work to be performed includes initial project meeting and discussion; data reduction and initial analysis; assessment evaluation; pilot test evaluation; remedial design evaluation; remedial system installation evaluation; analysis summary and report

FUNDING: 184010.7323

Prepared by: F. Wally Sandelin

Title: Public Works Director

Reviewed by: _____

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Transit Shop Pressure Washer
DEPARTMENT: Public Works, Fleet Services
CONTRACTOR Steam Cleaners Stockton, Inc.
AWARD AMOUNT: \$7,600.00
DATE OF RECOMMENDATION: November 5, 2008

BIDS OR PROPOSALS RECEIVED:

Steam Cleaners Stockton, Inc	\$7,600.00
Air & Lube Systems, Inc.	\$10,710.59
Bagley Equipment, Inc.	\$9,063.42

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

A new Hot Pressure Washer is required for the new Fleet Transit Shop currently under construction, and should be ordered now so that it can be installed as construction is completed. The construction documents specified that this new piece of equipment would be owner-furnished, contractor-installed to save the City of Lodi paying additional contractor mark-up.

FUNDING: 125079.7709

Prepared by: Dennis J. Callahan

Title: Fleet & Facilities Manager

Reviewed by: _____

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Lodi Lake Park- Painting Improvements
DEPARTMENT: Parks and Recreation
CONTRACTOR Tim Muhlbeier Painting
AWARD AMOUNT: \$8,400.00
DATE OF RECOMMENDATION: November 6, 2008

BIDS OR PROPOSALS RECEIVED:

Tim Muhlbeier Painting	\$8,400.00
Flatlander Painting Company	\$11,200.00
Habitat Painting & Finishing	\$14,175.00

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

The project consists of painting the shade structures and guard railing in the beach area and Dauber fishing dock, along with painting the Discovery Center. The scope of work includes pressure washing, spot priming all rust pits and applying finish paint and clean-up. The project is being funded through the State grant funds for the Lodi Boat House and Discovery Center Improvements. There is no direct impact on the Parks and Recreation Budget.

FUNDING: 1212808.1836.2400

Prepared by: Steve Virrey

Title: Parks Project Coordinator

Reviewed by: _____

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Meters Purchased

DEPARTMENT: Electric Utility

CONTRACTOR General Pacific

AWARD AMOUNT: \$9,766.46

DATE OF RECOMMENDATION: November 3, 2008

BIDS OR PROPOSALS RECEIVED:

General Pacific-Per meter price	\$318.00
General Pacific-Per meter price	\$358.00

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

Sole Supplier (per Council Res 99-124)

FUNDING: 160613.7352

Prepared by: Ken Berg

Title: LEUD Metering

Reviewed by: _____

Purchase Order No.: 18062

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: White Slough Irrigation Pump Repair
DEPARTMENT: Public Works
CONTRACTOR D & V Machine Shop and Pump Inc.
AWARD AMOUNT: \$6,315.59
DATE OF RECOMMENDATION: November 17, 2008

BIDS OR PROPOSALS RECEIVED:

D & V Machine Shop and Pump Inc.	\$6,315.59
Unico Mechanical Corp	\$9,320.00

“NO BID” or NO RESPONSE RECEIVED:

Pump Repair Service

BACKGROUND INFORMATION & BASIS FOR AWARD:

The White Slough irrigation structure and pumps were installed during the 1975 construction project. There is one small and three large pumps at this structure, which are needed to supply irrigation water to our tenants throughout the growing season. Irrigation pump #3 is one of the larger pumps and last was overhauled approximately ten years ago. This pump is in need of significant repairs as noted in the quote.

FUNDING: 170403.7331

Prepared by: Del Kerlin

Title: W. T. Superintendent

Reviewed by: _____

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Utility Bill/Payment Envelopes
DEPARTMENT: Purchasing
CONTRACTOR Envelope Products Company
AWARD AMOUNT: \$8,020.22
DATE OF RECOMMENDATION: November 5, 2008

BIDS OR PROPOSALS RECEIVED:

Envelope Products	\$8,020.22
Cenveo	\$8,573.41
Response Envelope	\$9,273.72

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

Increasing and restocking inventory of utility bill.payment envelopes..

FUNDING: 100505.7301

Prepared by: Sherry R. Moroz

Title: Purchasing Technician

Reviewed by: _____

EXHIBIT L

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Transformer Repair
DEPARTMENT: Electric Utility
CONTRACTOR Transformer Testing & Repair Inc.
AWARD AMOUNT: \$6,400.00
DATE OF RECOMMENDATION: November 5, 2008

BIDS OR PROPOSALS RECEIVED:

Transformer Testing & Repair Inc	\$6,400.00
Koffler Repair Inc	\$12,992.00

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

For repair and service of two transformers

FUNDING: 160651.7711

Prepared by: Lance Mauck

Title: Apparatus Mechanic

Reviewed by: _____

Purchase Order No.: 18066

EXHIBIT M

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Cushman Utility Vehicle
DEPARTMENT: Parks and Recreation
CONTRACTOR Golf Ventures West
AWARD AMOUNT: \$19,152.57
DATE OF RECOMMENDATION: November 7, 2008

BIDS OR PROPOSALS RECEIVED:

Golf Ventures West LLC \$19,152.57
The current GSA Vehicle Contract was used for this
purchase. #GS-07F-0013M

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

The is a purchase of a 2008 utility vehicle that is used by park staff to transport employees, equipment, materials and prepair sports field. The funding is through the General Fleet Vehicle Replacement Fund.

FUNDING: 1207511.7851

Prepared by: Steve Dutra

Title: Park Superintendent

Reviewed by: _____

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Public Right of Way Landscape Plant Replacement
DEPARTMENT: Public Works-Streets and Drainage Division
CONTRACTOR Exterior Design, Inc.
AWARD AMOUNT: \$9,420.00
DATE OF RECOMMENDATION: October 13, 2008

BIDS OR PROPOSALS RECEIVED:

Exterior Design, Inc.
Valley Crest

\$9,420.00
\$21,065.00

“NO BID” or NO RESPONSE RECEIVED:

Pride Landscape & Concrete

BACKGROUND INFORMATION & BASIS FOR AWARD:

Odyssey Landscape Company, Inc. is the current provider for contract maintenance of City landscape sites. The contract requires the reporting of dead or dying plant material, or replacement at contractor's expense. Odyssey has failed to report dead plant material and has not replaced dead plant material in spite of several requests.

Funding for this replacement will come from deductions to the on-going landscape maintenance contract.

FUNDING: 3215036.7335

Prepared by: George M. Bradley

Title: Streets & Drainage Manager

Reviewed by: _____

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: White Slough UV Lamp Replacement
DEPARTMENT: Public Works
CONTRACTOR Coombs-Hopkins & DC Frost
AWARD AMOUNT: \$18,252.00
DATE OF RECOMMENDATION: September 4, 2008

BIDS OR PROPOSALS RECEIVED:
Coombs-Hopkins & DC Frost \$18,252.00

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

UV Lamps, ballast, and quartz sleeves are used in the wastewater treatment process to disinfect treated wastewater before it is discharged to Dredger Cut or used by our customers (NCPA and San Joaquin Vector Control District). Coombs-Hopkins & DC Frost are the manufacture’s representatives for Trojan Technologies, Inc., who is the manufacture of our UV system and the sole supplier for all the parts utilized in their system. The UV lamps being purchased will be part of an ongoing operations and maintenance costs as they near their operational life expectancy of 12,000 hours. Future purchases will follow as the remaining lamps reach their life expectancy. The lamp replacement costs have been anticipated and are included in the 2008-2009 Wastewater Budget.

FUNDING: 170403.7331

Prepared by: Del Kerlin

Title: Wastewater Treatment
Superintendent

Reviewed by: _____

Purchase Order No.: 18097

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Statewide General Waste Discharge Requirements - Sanitary
Sewer Management Plan Development – Phase 2

DEPARTMENT: Public Works

CONTRACTOR Holmes International

AWARD AMOUNT: \$13,262.00

DATE OF RECOMMENDATION: November 14, 2008

BIDS OR PROPOSALS RECEIVED:
Holmes International

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

This work is a continuation towards a complete Sanitary Sewer Management Plan (SSMP) mandated by the State Water Resources Control Board. Final adoption of the City's SSMP is scheduled for completion by August 2009

In this phase of work, Holmes International has proposed to assist the City in preparing a Fats, Oils, and Grease (FOG) Program; established sewer system performance metrics; and initiate a public communication program designed to educate customers on various wastewater related topics. Over 70% of the work effort will be focused on the FOG program.

No other consultants were requested to provide proposals for this work. Holmes International was chosen from a group of three consultants that proposed to prepare the initial phase of work (Gap Analysis & Plan and Schedule). Their work product for this phase was excellent and performed at a very reasonable rate.

FUNDING: 170403.7323

Prepared by: Charlie Swimley

Title: Water Services Manager

Reviewed by: _____

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Electric Inventory
DEPARTMENT: Electric Utility
CONTRACTOR GEXPRO
AWARD AMOUNT: \$18,717.04
DATE OF RECOMMENDATION: November 17, 2008

BIDS OR PROPOSALS RECEIVED:

GEXPRO	\$18,717.04
All Phase Electric Supply	\$21,214.90
General Pacific Supply	\$23,062.59
HD Supply Utilities-Benicia	\$26,671.14
HD Supply Utilities-Portland	\$23,181.34

“NO BID” or NO RESPONSE RECEIVED:

Ace Supply Company
Rexel Norcal Valley
Kortick Manufacturing
Platt Electric Supply
WESCO Distribution
Intraline Inc.
Buckles-Smith Electric Company

BACKGROUND INFORMATION & BASIS FOR AWARD:

These items are for the Electric Inventory. They will be used in new construction. They will also be used for maintenance of the City of Lodi Electric system. GEXPRO was the low responsible bidder.

FUNDING: 160.1496

Prepared by: Randy Lipelt

Title: Buyer

Reviewed by: _____

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Kubota Utility Vehicle
DEPARTMENT: Parks and Recreation
CONTRACTOR Bobcat Central
AWARD AMOUNT: \$19254.67
DATE OF RECOMMENDATION: November 17, 2008

BIDS OR PROPOSALS RECEIVED:

Bobcat Central Inc	\$19,254.67
Industrial Power Products	\$19,924.49
Green Valley Tractor, Inc	\$20,440.61

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

An additional utility vehicle was required to be purchased as the parks division acquired the maintenance responsibilities of our first Landscape and Lighting District park. Funding is through the LL&D account.

FUNDING: 1207511.7851.559 E

Prepared by: Steve Dutra

Title: Park Superintendent

Reviewed by: _____

EXHIBIT S

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Safety Supplies
DEPARTMENT: Public Works
CONTRACTOR Airgas NCN
AWARD AMOUNT: \$7,473.71
DATE OF RECOMMENDATION: November 21, 2008

BIDS OR PROPOSALS RECEIVED:

Airgas NCN	\$4,473.71
Industrial Safety Supply Corp.	\$7,892.15
Hagemeyer	\$8,356.91

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

The safety supplies detailed in the Purchase Order and quote are needed by White Slough staff to safely and effectively enter the tanks, channels and other difficult to reach locations at White Slough that need to be entered by staff as part of their duties at the Facility. The equipment purchased is specialized for the confined spaces and fall protection requirements associated with the White Slough facility.

FUNDING:

Prepared by: _____

Title: _____

Reviewed by: _____

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Annual Boiler Maintenance Contract
DEPARTMENT: Public Works
CONTRACTOR Pyro Combustion of California
AWARD AMOUNT: \$5,575.00
DATE OF RECOMMENDATION: November 21, 2008

BIDS OR PROPOSALS RECEIVED:

Pyro Combustion of California	\$5,575.00
R.F. Mac Donald Company	\$6,287.40

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

The boilers at White Slough are needed to supply the hot water essential to maintaining proper operating temperature in the Facility’s anaerobic digesters. If not maintained within the proper range the digesters would fail to operate and the Facility would risk non-compliance of the solids handling process. To properly run, the boilers need an annual contract to be cleaned and maintained within industry standards to meet the San Joaquin Valley Air Pollution Control District regulations. Equally important, the boilers need maintenance to ensure the safety of City staff working around them on a daily basis.

FUNDING: 170403.7335

Prepared by: Del Kerlin

Title: W.T. Superintendent

Reviewed by: _____

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Lodi Lake Boat House / Discovery Center Improvements
DEPARTMENT: Parks & Recreation
CONTRACTOR NetVersant
AWARD AMOUNT: \$5,351.73
DATE OF RECOMMENDATION: 11/24/08

BIDS OR PROPOSALS RECEIVED:
NetVersant \$5,351.73

“NO BID” or NO RESPONSE RECEIVED:
Bid proposals were handled through the I.S.
Department.

BACKGROUND INFORMATION & BASIS FOR AWARD:

The purchase will provide new underground cabling for voice and data at the Beach House, Discovery center and New Boat House. The funding for the cabling is through a State grant.

FUNDING: 1212808.1836.2400

Prepared by: Steve Virrey

Title: Parks Project Coordinator

Reviewed by: _____

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: White Slough Emergency Generator Diesel Purchase
DEPARTMENT: Public Works
CONTRACTOR E. F. Kludt and Sons, Inc.
AWARD AMOUNT: \$17,724.88
DATE OF RECOMMENDATION: December 2, 2008

BIDS OR PROPOSALS RECEIVED:

E. F. Kludt and Sons, Inc.	\$17,724.88
Ramos Oil Company	\$17,778.75
Van De Pol Enterprises, Inc.	\$20,472.50

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

It was recently confirmed by Northern California Power Agency (NCPA), that due to new Electrical standard PRC-005, Relay and Protective Equipment Maintenance Regulation for power plants, that they will need to shut down their system December 7, 2008 until December 13, 2008. Because NCPA is the City's primary power source, we will need to run our onsite emergency generator. This diesel purchase is to replenish the fuel tank for the emergency generator used to supply backup power to run the White Slough Water Pollution Control Facility. To ensure the diesel is delivered in a timely manner, we are selecting the vendor on a current quote and have estimated usage, although the actual cost of the diesel will be assessed at the time of delivery.

FUNDING: 170403.7355

Prepared by: Del Kerlin

Title: Wastewater Treatment
Superintendent

Reviewed by: _____

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: The City of Lodi-Community Arts Directory/Winter-Spring 2009 Issue

DEPARTMENT: Division of Arts & Culture/Community Center

CONTRACTOR Commerce Printing

AWARD AMOUNT: \$10,679.00

DATE OF RECOMMENDATION: December 3, 2008

BIDS OR PROPOSALS RECEIVED:

Commerce Printing – Layout & Design, mail prep, postage, printing and Web upload	\$10,679.00
Folger Printing – Layout & Design, mail prep, printing, postage not included	\$9,487.15
Casey Printing – Layout & Design, mail prep printing, postage not included	\$9,157.00

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

Commerce Printing offers a complete production and a high quality product at the lowest competitive price.

FUNDING: 345026.7301

Prepared by: Diane C. Amaral

Title: Program Coordinator

Reviewed by: _____

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Lodi Lake Boat House / Discovery Center Improvements
DEPARTMENT: Parks & Recreation
CONTRACTOR David F O'Keefe Company
AWARD AMOUNT: \$9,560.97
DATE OF RECOMMENDATION: 12/11/08

BIDS OR PROPOSALS RECEIVED:

David F O'Keefe Company	\$9,560.97
GameTime Recreation	\$9,700.00

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

The purchased patio furniture (benches, tables, trash receptacles and planters) will be installed as part of the project noted above. The funding for the furniture is through a State grant.

FUNDING: 1212808.1836.2400

Prepared by: Steve Virrey

Title: Parks Project Coordinator

Reviewed by: _____

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Storage Area Network
DEPARTMENT: ISD
CONTRACTOR Cybernetics
AWARD AMOUNT: \$15,035.00
DATE OF RECOMMENDATION: 12/11/08

BIDS OR PROPOSALS RECEIVED:

Cybernetics	\$15,035.00
Dell	\$30,812.80
HP	\$16,161.43

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

Equipment provides abundant, expandable data storage and archiving facility. It also allows the City to begin virtualizing its server assets in an effort to reduce the footprint of its computer room. Cybernetics was chosen because of price and value as compared to other bidders.

FUNDING: 123001.7715

Prepared by: Steve Mann

Title: I.S. Manager

Reviewed by: _____

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Antivirus Renewal
DEPARTMENT: ISD
CONTRACTOR Angus-Hammer
AWARD AMOUNT: \$5,644.00
DATE OF RECOMMENDATION: December 16, 2008

BIDS OR PROPOSALS RECEIVED:
Angus-Hammer, Inc. \$5,644.00

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

The City annually renews its Symantec anti-virus basic maintenance contract through one of their recognized resellers.

FUNDING: 123001.7359

Prepared by: Steve Mann

Title: I.S. Manager

Reviewed by: _____

Purchase Order No.: 18186

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: White Slough Boiler Re-tube
DEPARTMENT: Public Works
CONTRACTOR Pyro Combustion of California
AWARD AMOUNT: \$7,450.00
DATE OF RECOMMENDATION: December 17, 2008

BIDS OR PROPOSALS RECEIVED:
Pyro Combustion of California \$7,450.00

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

No other bids were pursued as Pyro Combustion is our contracted supplier for our annual operation & maintenance of our boilers. They have considerable familiarity with our boilers and are a local service representative for the Cleaver Brooks brand.

FUNDING: 170403.7331

Prepared by: Del Kerlin

Title: W.T. Superintendent

Reviewed by: _____

Purchase Order No.: 18194

Comments by the public on non-agenda items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Comments by the City Council Members on non-agenda items



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Conduct a Public Hearing to consider the Community Development Block Grant Program Consolidated Plan and Action Plan development process and to receive input regarding community needs and funding priorities.

MEETING DATE: February 4, 2009

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Conduct a Public Hearing to consider the Community Development Block Grant Program Consolidated Plan and Action Plan development process and to receive input regarding community needs and funding priorities.

BACKGROUND INFORMATION: This Public Hearing is required as part of the Federal requirements of the Community Development Block Grant (CDBG) program. No action on the part of the City Council is sought at this time. Staff will consolidate any public comment as part of the input process.

In June 2008, the Council authorized staff to pursue becoming an entitlement community under the Community Development Block Grant (CDBG) Program, beginning with the 2009/10 fiscal year. By becoming an entitlement community, the City has the opportunity to receive a larger annual CDBG allocation, but must comply with additional administrative requirements.

Lodi has received CDBG funding since 1985 as a part of San Joaquin County. San Joaquin County staff has typically allowed the City to select projects and assist with implementing them. Each year, Lodi funds a mix of public works projects (including infrastructure and parks and facilities improvements), non-profit capital projects, economic development activities, and public services. Project eligibility requirements will remain the same when the City becomes an entitlement community.

Funding Allocation

According to HUD, Lodi's preliminary CDBG allocation for 2009/10 is \$743,500. Final allocations are typically released by HUD in February or March. Allocations are not currently anticipated to differ significantly from the estimates provided by HUD.

CDBG Planning

There are three documents that are required by HUD of any jurisdiction seeking to receive CDBG funds, collectively called the Consolidated Plan documents.

The Consolidated Plan is a five-year plan for identifying and addressing community needs. The Plan contains an assessment that defines housing and community development needs for low-income persons and families, as well as a variety of special needs populations, including homeless, elderly, and

APPROVED: _____
Blair King, City Manager

disabled persons. The needs assessment is based on Census data, other available data sources, and input from community residents and service providers. The second component of the Consolidated Plan is a strategic plan, which lays out the City's method for expending CDBG funds over the five-year period and sets goals and priorities for each type of eligible activity.

The Action Plan is the Consolidated Plan's annual implementing document. The Action Plan provides a detailed description of each activity proposed for the fiscal year. It also contains the City's CDBG budget and goals for the fiscal year.

The Citizen Participation Plan provides the policies and procedures for ensuring public access to CDBG program documents, including noticing and publication requirements. The goal of the Citizen Participation Plan is to give all citizens adequate opportunity to provide comments on CDBG goals, activities, budgets, and reports.

Public Participation

HUD encourages public participation throughout the Consolidated Plan process in order to identify community needs and priorities. City staff plans several opportunities for public involvement throughout the process. There will be three public hearings, one public meeting, an online survey, and opportunities to submit written comments on needs and the draft Plans.

Next Steps

The adopted Consolidated Plan documents must be submitted to HUD no later than May 15, 2009 in order to receive funding beginning July 1, 2009. City staff is actively working on a draft Consolidated Plan, and, as in past years, the City will offer an application process for nonprofit projects. Highlights of the planned schedule include the following:

- February 11 Public meeting on community needs; subrecipient application training
- Feb. 13 - March 13 Online survey available
- March 11 Subrecipient application deadline
- March 24 City Council shirtsleeve session to review applications
- April 1 Public hearing to review draft Consolidated Plan documents
- April 6 - May 6 Public review period
- May 6 Public hearing to adopt Consolidated Plan documents

Up to this point as part of the Urban County designation, this Consolidated Plan process has been handled by San Joaquin County. Through that process we simply provided information and feedback specific to our needs here in Lodi and the County, in turn, incorporated that information into the Plan for the entire Urban County. The point being that this is the same process that has taken place in previous years, only now with City staff rather than the County.

FISCAL IMPACT:

The Consolidated Plan documents are anticipated to be completed using the City's 2008/09 CDBG administrative allocation through San Joaquin County. Up to 20 percent of the 2009/10 CDBG allocation may be used for planning and administration.

FUNDING AVAILABLE:

N/A

Konradt Bartlam
Interim Community Development Director

KB/jw



***Please immediately confirm receipt
of this fax by calling 333-6702***

CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: PUBLIC HEARING TO CONSIDER COMMUNITY DEVELOPMENT
BLOCK GRANT PROGRAM CONSOLIDATED PLAN AND ACTION PLAN
DEVELOPMENT PROCESS AND TO RECEIVE INPUT REGARDING
COMMUNITY NEEDS AND FUNDING PRIORITIES

PUBLISH DATE: SATURDAY, JANUARY 24, 2009

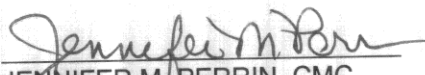
LEGAL AD

TEAR SHEETS WANTED: One (1) please

SEND AFFIDAVIT AND BILL TO: RANDI JOHL, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, JANUARY 22, 2009

ORDERED BY: RANDI JOHL
CITY CLERK


JENNIFER M. PERRIN, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

LNS	Faxed to the Sentinel at 369-1084 at _____(time) on _____(date) _____(pages)			
	Phoned to confirm receipt of all pages at _____(time) _____CM _____JMP (initials)			



DECLARATION OF POSTING

PUBLIC HEARING TO CONSIDER COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM CONSOLIDATED PLAN AND ACTION PLAN DEVELOPMENT PROCESS AND TO RECEIVE INPUT REGARDING COMMUNITY NEEDS AND FUNDING PRIORITIES

On Friday, January 23, 2009, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing to consider Community Development Block Grant Program Consolidated Plan and Action Plan development process and to receive input regarding community needs and funding priorities (attached and marked as Exhibit A), was posted at the following locations:


Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 23, 2009, at Lodi, California.

ORDERED BY:

**RANDI JOHL
CITY CLERK**


JENNIFER M. PERRIN, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK



**THE CITY OF LODI
COMMUNITY DEVELOPMENT DEPARTMENT
Notice of Public Hearing for Discussion of the Community Development
Block Grant Program**

NOTICE IS HEREBY GIVEN that a public hearing will be held on Wednesday, February 4, 2009 at 7:00 p.m. or as soon thereafter as the matter may be heard, in the Lodi City Council Chambers, 305 West Pine Street, Lodi, CA 95241 in order to consider the Community Development Block Grant (CDBG) Program Consolidated Plan and Action Plan development process and to receive input regarding community needs and funding priorities. The City anticipates receiving approximately \$743,500 in 2009-10 and \$3.7 million over the Consolidated Plan period.

The CDBG program provides funding for activities that benefit low-income persons, eliminate slum or blight, or serve an urgent need. Eligible activities include property acquisition, public improvements, housing rehabilitation, economic development, and public services.

In order to secure CDBG funding, the City must complete three planning documents. The Consolidated Plan is a five-year plan for identifying and addressing community needs. The Plan contains an assessment that defines housing and community development needs as well as a strategic plan, which lays out the City's method for expending CDBG funds over the five-year period and sets goals and priorities for each type of eligible activity. The Action Plan is the Consolidated Plan's annual implementing document, and contains the City's budget and goals for the fiscal year. The Citizen Participation Plan provides the policies and procedures for ensuring public access to CDBG program documents, including noticing and publication requirements.

Planning documents will be made available to the public for at least 30 days before adoption by the City Council. The documents are anticipated to be released in April 2009 for public review and comment.

The purpose of this public hearing will be to give citizens an opportunity to make their comments known regarding community needs and potential activities to be funded under the CDBG Program. If you are unable to attend the public hearing, you may direct written comments to the City Clerk, City of Lodi, PO Box 3006, Lodi, CA 95241, or you may telephone (209) 333-6711. In addition, information is available for review at Lodi City Hall (221 West Pine Street) between the hours of 8:00 a.m. and 5:00 p.m. on weekdays.

The City promotes fair housing and makes all its programs available to low- and moderate-income families regardless of age, race, color, religion, sex, national origin, sexual preference, marital status or handicap.



DECLARATION OF MAILING

PUBLIC HEARING TO CONSIDER COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM CONSOLIDATED PLAN AND ACTION PLAN DEVELOPMENT PROCESS AND TO RECEIVE INPUT REGARDING COMMUNITY NEEDS AND FUNDING PRIORITIES

On Friday, January 23, 2009, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a Notice of Public Hearing to consider Community Development Block Grant Program Consolidated Plan and Action Plan development process and to receive input regarding community needs and funding priorities, attached hereto marked Exhibit A. The mailing list for said matter is attached hereto marked Exhibit B.

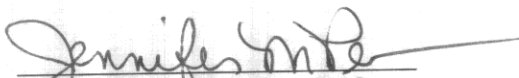
There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 23, 2009, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK, CITY OF LODI


JENNIFER M. PERRIN, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK



CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: February 4, 2009

Time: 7:00 p.m.

For information regarding this notice please contact:

Randi Johl

City Clerk

Telephone: (209) 333-6702

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, February 4, 2009**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following item:

- a) **Community Development Block Grant Program Consolidated Plan and Action Plan development process and to receive input regarding community needs and funding priorities.**

Information regarding this item may be obtained in the Community Development Department, 221 West Pine Street, Lodi, (209) 333-6711. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk, City Hall, 221 West Pine Street, 2nd Floor, Lodi, 95240, at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:

Randi Johl
City Clerk

Dated: January 21, 2009

Approved as to form:

D. Stephen Schwabauer
City Attorney

Contact	Company	Address	City	State	Zip
Robina Asghar, Executive Director	Community Partnership for Families of San Joaquin County	PO Box 1569	Stockton	CA	95201
Tim Viall, Executive Director	Emergency Food Bank	7 W. Scotts Avenue	Stockton	CA	95203
Ted Van Alen, Business Administrator	The Salvation Army, Lodi Corps	PO Box 1388	Lodi	CA	95241
Wendy Moore, Deputy Director	San Joaquin County Human Services Agency	PO Box 201056	Stockton	CA	95201-3066
Paul Rengh, Executive Director	Second Harvest Food Bank	704 E. Industrial Park Drive	Manteca	CA	95337
Jonathan Quinn, Development Administrator	Senior Service Agency of San Joaquin County	224 S. Sutter St.	Stockton	CA	95203
Valerie Sims, Administrator/ CEO	VBR Foster Family Agency	1852 W. 11th Street, #699	Tracy	CA	95376
Jo Ann Rimmer	SunHouse	PO Box 348	Lodi	CA	95241-0348
LOEL Senior Center	Tracy Williams	105 S. Washington	Lodi	CA	95240
Lodi House	Suzanne Mangum	801 S. Washington	Lodi	CA	95240
Mary Graham Children's Shelter Foundation		PO Box 201056	Stockton	CA	95201-3006
Habitat for Humanity	C/O Pete Chadwick	P.O. Box 7429	Stockton	CA	95267
Lodi Boy's & Girl's Club		275 Poplar Street	Lodi	CA	95240
Child Abuse Prevention		P.O. Box 1257	Stockton	CA	95201-1257
Kate Macek, Development Council	Women's Center of San Joaquin County	620 North San Joaquin Street	Stockton	CA	95202

PH for CDBG Program Consolidated Plan and Action Plan development process

Director					
One-Eighty Teen Center		17 W. Lockeford Street	Lodi	CA	95240
Housing Authority		448 S. Center Street	Stockton	CA	95203
Lodi Adopt-A- Child		PO Box 2479	Lodi	CA	95241-2479
Council for the Spanish Speaking		308 N. California Street	Stockton	CA	95202
Lodi Unified School District		1305 E. Vine Street	Lodi	CA	95240



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Post for Three Expiring Terms on the Lodi Improvement Committee

MEETING DATE: February 4, 2009

PREPARED BY: City Clerk

RECOMMENDED ACTION: Direct the City Clerk to post for three expiring terms on the Lodi Improvement Committee.

BACKGROUND INFORMATION: Three terms are due to expire on the Lodi Improvement Committee. It is, therefore, recommended that the City Council direct the City Clerk to post for the expiring terms below.

Lodi Improvement Committee

Fran Forkas	Term to expire March 1, 2009
Eileen St. Yves	Term to expire March 1, 2009
Robert Takeuchi	Term to expire March 1, 2009

Government Code Section 54970 et seq. requires that the City Clerk post for vacancies to allow citizens interested in serving to submit an application. The City Council is requested to direct the City Clerk to make the necessary postings.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Randi Johl
City Clerk

RJ/JMP

APPROVED: _____
Blair King, City Manager



CITY OF LODI REDEVELOPMENT AGENCY COUNCIL COMMUNICATION

AGENDA TITLE: Review Economic Development/Owner Participation Policies and Conceptual Three-Year Program Budget for the Lodi Community Improvement Project

MEETING DATE: February 4, 2009

PREPARED BY: Executive Director

RECOMMENDED ACTION: Review the recommended Economic Development/ Owner Participation Policies and conceptual three-year program budget for the Lodi Community Improvement Project.

BACKGROUND INFORMATION: The Council has begun to consider implementation steps for the Lodi Community Improvement Project. In August, 2008, the Council adopted policies and procedures for a Residential Paint-up – Fix-up program. In September, 2008, at a Shirtsleeve Meeting, the Council was presented with policies for economic development and the Economic Development Owner Participation Program.

As the initial presentation was at an informal Shirtsleeve meeting, now it is proposed that the Council review a conceptual three-year budget for the programs portion of the Lodi Community Improvement Project at a formal Council Meeting. The “Programs” referred to are all the Community Improvement Project activities excluding housing. In addition to the conceptual program budget, a presentation will be made with regard to the job creation/economic development/ owner participation policies proposed. The Council is encouraged to provide feedback.

Depending upon the results of Measure “W”, the first year’s budget for the Lodi Improvement Project will be adopted for Fiscal Year 2009-10.

Attached are proposed policies and tentative projections of tax increment for the next three years.

FISCAL IMPACT: The budget projections have been based upon a scenario of certain development occurring. It is unknown whether or not the development will occur. The proposed programs are self-funding, they should generate revenue to pay for their cost. The policies and programs expand the tax base which in turn creates more revenue to be reinvested in additional job creation and economic expansion.

Estimated Revenue:

FY 09-10:	Housing Set Aside - \$100,000 Programs - \$300,000
FY 10-11:	Housing Set Aside - \$225,000 Programs - \$700,000
FY 11-12:	Housing Set Aside - \$390,000 Programs - \$1,213,000.

Blair King, Executive Director

APPROVED: _____
Blair King, City Manager

CITY OF LODI REDEVELOPMENT AGENCY

POLICIES OWNER PARTICIPATION ASSISTANCE

PURPOSE: Pursuant to the objectives of the Lodi Community Improvement Project, Owner Participation Agreements (OPAs) will provide financial assistance to rehabilitate structures, develop new facilities, encourage private investment, improve the tax base, promote commercial and industrial development, and create employment.

USE OF FUNDS: Reimburse costs to rehabilitate existing and develop new commercial, retail, or industrial property located within the boundaries of the Lodi Community Improvement Project. In addition to construction expenses, funds may be used to reimburse fees, permits, "impact fees," mitigation fees, architectural and design fees, infrastructure costs, off-site improvements, parking lots, equipment costs, fixtures and furnishings, façade improvements, and land acquisition costs. Priority will be given to projects requesting off-site improvements owned by the city/agency upon completion, such as public parking lots, sewer/water lines, electric facilities, street improvements, etc. Note: some forms of assistance may trigger state prevailing wage requirements.

ELIGIBILITY: The project must result in increased assessed valuation. The site must be within the boundaries of the Lodi Community Improvement Project. A financial gap must be demonstrated that prevents a reasonable return on investment. Assistance must be requested prior to the issuance of the Certificate of Occupancy. The Agency will not offer assistance to relocate automobile dealerships or big box retailers within the Lodi market area nor to develop automobile dealerships or big box retailers on any parcel five acres or larger that has not been previously developed for urban use. The Agency will not offer assistance for acquisition, construction, or improvement for gambling or gaming sites.

FUNDING LIMITS: Funding shall be analyzed based upon the return to the city/agency in increased property value, taxes (including sales, transient occupancy, and business licenses), job creation, and the ability to eliminate crime, and stimulate other economic development activity. Funding limits shall be negotiated on a case-by-case basis contingent upon the benefits and financial return to the city/agency.

APPLICATION PROCEDURE: Potential participants shall complete a project information summary that will include, but is not limited to, the following information: project description, estimated full value of property after improvements, total estimated payroll, total square footage created, estimated cost detail, and proposed financing.

Staff will summarize the project information and seek the Agency's approval to enter into negotiations for the purpose of drafting an OPA (step one). If the Agency should grant its consent, an OPA will be negotiated (step two). The draft OPA will be presented to the Agency for approval or modification (step three).

RESTRICTIONS: Funds provided directly to an owner/developer will be provided on a reimbursement basis only. Reimbursements will be made upon Certificate of Occupancy or other acceptable documentation of project completeness. Assistance must be requested prior to the issuance of a Certificate of Occupancy. Owner must expressly agree to nondiscrimination and nonsegregation that shall run with the land with regard to sale, lease, sublease, use, enjoyment or occupancy.

FEES: There is no application fee for the Owner Participation Program. All other city permit and application fees apply.

February 4, 2009

Lodi Community Improvement Project

Three-year budget projection

FY 2009-2010:

- Housing Set-Aside: \$100,000
- Other Programs: \$300,000

FY 2010-2011:

- Housing Set-Aside: \$225,000
- Other Programs: \$700,000

FY 2011-2012:

- Housing Set-Aside: \$390,000
- Other Programs: \$1,213,000

“Other Programs” budgets

FY 2009-10

Jobs/OPA/Econ. Development: **\$300,000**

- Promotion \$ 30,000
- Owner Participation Agreement \$270,000

Capital Projects

Facilities

Total **\$300,000**

FY 2010-11

Jobs/OPA/Econ. Development: **\$330,000**

- Promotion \$30,000
- Owner Participation Agreement \$300,000

Capital Projects: **\$150,000**

- Water meter program?
- Lodi Avenue?
- Cherokee Lane rehabilitation?

Facilities: **\$150,000**

Administration: **\$ 70,000**

Total **\$700,000**

FY 2011-12

Jobs/OPA/Econ. Development: **\$561,000**

- Promotion \$ 30,000
- Owner Participation Agreements \$531,000

Capital Projects: **\$291,000**

- Water meter program?
- Lodi Avenue?
- Cherokee Lane rehabilitation?

Facilities: **\$291,000**

Administration: **\$ 70,000**

Total **\$1,213,000**

Housing Set-Aside budgets

FY 2009-10

• Residential Paint-Up Fix-Up:	\$90,000
• Senior Housing:	
• Transitional Youth:	
• Infill First-Time Home Buyers:	
• Administration:	\$10,000
Total	\$100,000

FY 2010-11

• Residential Paint-Up Fix-Up:	\$ 90,000
• Senior Housing:	\$125,000
• Transitional Youth:	
• Infill First-Time Home Buyers:	
• Administration:	\$ 10,000
Total	\$225,000

FY 2011-12

• Residential Paint-Up Fix-Up:	\$90,000
• Senior Housing:	\$290,000
• Transitional Youth:	
• Infill First-Time Home Buyers:	
• Administration:	\$10,000
Total	\$390,000



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Rescinding Certification of the Final Environmental Impact Report (EIR) for the Lodi Shopping Center Project Located at 2640 West Kettleman Lane and Reset Public Hearing for March 11, 2009, at 6:30 p.m. to Consider the Appeals of Browman Development Company and Wal-Mart Stores, Inc. Regarding the Decision of the Planning Commission to Not Certify the Final Revised EIR

MEETING DATE: February 4, 2009

PREPARED BY: City Attorney

RECOMMENDED ACTION: Adopt Resolution Rescinding Certification of the Final Environmental Impact Report (EIR) for the Lodi Shopping Center Project Located at 2640 West Kettleman Lane and Reset Public Hearing for March 11, 2009, at 6:30 p.m. to Consider the Appeals of Browman Development Company and Wal-Mart Stores, Inc. Regarding the Decision of the Planning Commission to Not Certify the Final Revised EIR.

BACKGROUND INFORMATION: The City Council received a Notice to Cure an alleged Brown Act violation arising out of its public hearing on the EIR on Dec 10, 2008. At its closed session on January 13, 2009, the City Council requested that staff set this matter to decertify the EIR and reset the public hearing, as an expedient to avoid litigation, and not a concession of a Brown Act violation. Staff recommends that the Council set the public hearing for a Special Meeting at Hutchins Street Square, Charlene Powers-Lange Theater, 125 S. Hutchins Street, Lodi on March 11, 2009.

FUNDING: Not applicable.

FISCAL IMPACT: Avoided litigation costs.

D. Stephen Schwabauer
City Attorney

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2009-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI
RESCINDING RESOLUTION NO. 2008-238, THEREBY
RESCINDING THE CERTIFICATION OF THE FINAL REVISED
ENVIRONMENTAL IMPACT REPORT (EIR-03-01) FOR THE
LODI SHOPPING CENTER; STATE CLEARINGHOUSE
NO. 2003042113

=====

WHEREAS, an application was filed by Browman Development Company for a commercial shopping center at 2640 W. Kettleman Lane more particularly described as Assessor's Parcel numbers 058-030-08 and 058-030-02, and a portion of 058-030-09; and

WHEREAS, the Community Development Director made a determination that the project may have a potentially significant impact on the environment and ordered the preparation of an Environmental Impact Report (EIR); and,

WHEREAS, the Notice of Preparation (NOP) of the Draft EIR was prepared and distributed to reviewing agencies on April 14, 2003; and,

WHEREAS, the Draft Environmental Impact Report (DEIR) was released on August 5, 2004, for circulation; and,

WHEREAS, the Planning Commission of the City of Lodi, after ten (10) days published notice held a study session and public hearing on September 9, 2004. Public comments on the DEIR were taken at this hearing; and,

WHEREAS, a Final EIR (FEIR) responding to all public comments on the DEIR submitted prior to the expiration of the comment period was prepared and released to the public and commenting agencies on November 22, 2004; and,

WHEREAS, the Planning Commission of the City of Lodi, after ten (10) days published notice held a public hearing before said Commission on December 8, 2004; and,

WHEREAS, the Planning Commission of the City of Lodi reviewed and certified the Final Environmental Impact Report prepared for the project; and,

WHEREAS, that certification and approval was appealed to the Lodi City Council; and,

WHEREAS, the Lodi City Council, on appeal, reviewed and certified the FEIR prepared for the project (Resolution No. 2005-26, February 3, 2005); and,

WHEREAS, the Lodi City Council rescinded the certification of the FEIR on May 3, 2006, pursuant to Superior Court Order of December 19, 2005, which order directed revisions to be made to the EIR; and,

WHEREAS, in response to the Court Order, the City prepared a Notice of Preparation (NOP) of the Revisions to the Environmental Impact Report (REIR) and distributed it to reviewing agencies on September 25, 2006; and,

WHEREAS, the Draft Revisions to the Environmental Impact Report (DREIR) was released and circulated on October 17, 2007, for public comment and review; and,

WHEREAS, the Planning Commission of the City of Lodi, after ten (10) days published notice held a study session and public hearing on November 14, 2007. Public comments on the DREIR were received at this hearing; and,

WHEREAS, a Final Revisions to the EIR (FREIR), which includes the DREIR, as revised, and responses to all public comments on the DREIR submitted prior to the expiration of the comment period was prepared and released to the public and commenting agencies on August 26, 2008; and,

WHEREAS, on October 8, 2008, the Planning Commission of the City of Lodi held a hearing on the adequacy of the FREIR, and the Planning Commission declined to certify the FREIR; and,

WHEREAS, Wal-Mart Stores, Inc. and Browman Development Company have each filed timely appeals of the Planning Commission's denial of the FREIR to the City Council; and,

WHEREAS, the City Council of the City of Lodi, after ten (10) days published notice held a public hearing on December 10, 2008 to consider the appeal of the Planning Commission's decision to certify the FREIR.

WHEREAS, the Lodi City Council did on December 10, 2008, certify the Final Revised Environmental Impact Report (EIR-03-01) relating to the Lodi Shopping Center project as adequate; and

WHEREAS, the City Council received a Notice to Cure an alleged Brown Act violation arising out of its public hearing on the EIR on Dec 10, 2008, and at its closed session on January 13, 2009, the City Council requested that staff set this matter to decertify the EIR and reset the public hearing, as an expedient to avoid litigation, and not a concession of a Brown Act violation; and

WHEREAS, staff recommends that the Council set the public hearing for a Special Meeting at Hutchins Street Square, Charlene Powers-Lange Theater, 125 S. Hutchins Street, Lodi on March 11, 2009.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED, as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference.
2. For the reason stated above, the Lodi City Council hereby rescinds Resolution No. 2008-238, thereby rescinding certification of the Final

Revised Environmental Impact Report (EIR) for the Lodi Shopping Center Project located at 2640 West Kettleman Lane; and

3. That a Public Hearing be set for a Special Meeting on March 11, 2009 at Hutchins Street Square, Charlene Powers-Lange Theater, 125 S. Hutchins Street, Lodi, California., to consider the Appeals of Browman Development Company and Wal-Mart Stores, Inc. regarding the Decision of the Planning Commission to Not Certify the Final Revised EIR.

Dated: February 4, 2009

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I hereby certify that Resolution No. 2009-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held February 4, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2009-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Authorizing City Manager to Enter into a Second Amendment to World of Wonders Science Museum Lease

MEETING DATE: February 4, 2009

PREPARED BY: City Manager

RECOMMENDED ACTION: Adopt Resolution authorizing the City Manager to enter into a Second Amendment to the World of Wonders (WOW) Science Museum lease.

BACKGROUND INFORMATION: The Board of Directors of the WOW Science Museum has requested that the Council consider amending the current lease agreement.

Specifically, it is requested that the Council:

- A) Extend the commencement of rent obligations by one year – (The current agreement calls for rent in the amount of \$1,030.00 per month to begin in February 2009);
- B) Freeze the indexing of rent increases for one year – (The rent is to increase annually by the Consumer Price Index or 2.5% whatever is larger);
- C) Extend the commencement of regular hours of operation to August 1, 2009 – (The current agreement envisioned the museum would be opened by February 2009 for a minimum of 33 hours per week, at least 12 hours of the weekend including no less than six hours on Sunday); and
- D) Extend the completion of the south tenant improvements until one year after the construction defects of the building are corrected – (The current agreement did not account for construction defects but did require all tenant improvements be completed by January 31, 2009).

The WOW Museum entered into an agreement with the City Council on August 2, 2006 to develop the “shell” space attached to the downtown parking garage as an interactive science museum focused on children. Prior to this agreement, the City had unsuccessfully marketed the space for retail use. The lack of a floor, electrical system, heating, air conditioning, and other tenant improvements made the space cost prohibitive.

APPROVED: _____
Blair King, City Manager

The WOW has engaged in a very successful campaign to raise funds and has invested \$550,000 in improvements, plus in-kind contributions. They have a collection of exhibits via the Exploratorium and, subject to raising operating capital, are ready to open.

WOW had a “soft opening” for two weeks at the end of December. It was very well received. A Grand Opening is planned for March and museum will be open school breaks and holidays. The museum is open for special events and holidays. However, the museum is requesting more time to raise operating capital. The economy has been a problem for fund raising.

During the course of construction, the southern side of the space was discovered to have mold and construction defects. The City and WOW were previously unaware of the situation. The City and WOW are working towards a resolution. Until it is corrected, the WOW is not responsible for tenant improvements, but the museum still has a desire for the space.

FISCAL IMPACT: All rent proceeds benefit the Transit Fund pursuant to the City’s funding agreement with the Federal Transit Administration. The Transit Fund would forgo approximately \$12,360 in annual rent. On the other hand, the City has received over \$550,000 in improvements to its asset. It appears as though the WOW will be a downtown attraction that will add to the economic vitality of Sacramento Street and help to draw visitors to downtown Lodi. In addition, it is expected the WOW retail store will produce future sales tax revenue.

Blair King
City Manager

Attachment: Amended Lease Agreement

RESOLUTION NO. 2009-_____

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE CITY MANAGER TO ENTER INTO
SECOND AMENDMENT TO WORLD OF WONDERS
SCIENCE MUSEUM LEASE

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WHEREAS, the WOW Museum entered into an agreement with the City Council on August 2, 2006 to develop the "shell" space located attached to the downtown parking garage as an interactive science museum focused on children; and

WHEREAS, the WOW has engaged in a very successful campaign to raise funds and has invested \$550,000 in improvements, plus in-kind contributions. They have a collection of exhibits via the Exploratorium and, subject to raising operating capital, are ready to open; and

WHEREAS, the museum is requesting more time to raise operating capital due to the existing economy which has effected fund raising efforts; and

WHEREAS, during the course of construction, the southern side of the space was discovered to have mold and construction defects, of which the City and WOW were not aware, and are now working towards a resolution; and

WHEREAS, until the defects are remedied, WOW is not responsible for tenant improvements; and

WHEREAS, The Board of Directors of the WOW Science Museum has requested that the City Council consider amending the current lease agreement as outlined below:

- A) Extend the commencement of rent obligations by one year – \$1,030.00 per month to begin in February 2010;
- B) Freeze the indexing of rent increases for one year – (The rent is to increase annually by the Consumer Price Index or 2.5% whatever is larger);
- C) Extend the commencement of regular hours of operation to August 1, 2009; and
- D) Extend the completion of the south tenant improvements until one year after the construction defects of the building are corrected.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to enter into a Second Amendment to the WOW Museum Lease as outlined above.

Dated: February 4, 2009

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I hereby certify that Resolution No. 2009-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held February 4, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2009-_____

SECOND AMENDMENT TO LEASE AGREEMENT

WORLD OF WONDERS SCIENCE MUSEUM

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THIS SECOND AMENDMENT TO LEASE AGREEMENT, entered into this ____ day of _____, 2009, by and between the CITY OF LODI, a municipal corporation ("City"), and the World of Wonders Science Museum, a California Nonprofit Corporation (Tax ID No. 20-3075595) ("The WOW" or "Lessee") shall be as follows:

WHEREAS, the parties entered into a Lease Agreement dated February 1, 2007 to allow the construction of Tenant Improvements for and the operation of a Science Museum and Museum Store by The WOW in the Lodi Parking Structure space owned by the City and Council approved a FIRST AMENDMENT dated on December 19, 2007; and

WHEREAS, the Lease Agreement as amended requires that the Tenant Improvements be completed by January 31, 2009 and that the payment of rent commence by February 1, 2009;

WHEREAS, The WOW has completed construction of the north half of the Tenant Improvements but construction of the Tenant Improvements for the south half has been delayed by roof leaks which must be repaired prior to the commencement of tenant improvements; and

WHEREAS, in recognition of WOW's efforts and expected successful fundraising campaign, the Parties wish to extend WOW's deadline for completion of the tenant improvements, regular hours of operation and the rent commencement date.

NOW, THEREFORE, BE IT AGREED AS FOLLOWS:

1. Effect of Amendment.

Except as expressly modified herein all terms of the Lease Agreement shall remain in full force and effect.

2. Rent: Paragraph six of the Lease Agreement shall be amended to read:

No rent shall be required to be paid until February 1, 2010. Starting February 1, 2010 the WOW shall pay rent in the amount of \$1,030.00 monthly (which is the equivalent of \$1.29 per square foot rent per month for the estimated 800 square foot Museum Store.) to City.

The WOW's monthly rental payment shall increase in each year of this Lease based upon the annual percentage change of The Consumers Price Index for All Urban Consumers (All Items), San Francisco-Oakland-San Jose Average, as published by The United States Department of Labor Statistics, for the month prior to the date the payment is due. Notwithstanding the foregoing, for any given year, The WOW's monthly rental payment shall increase by no less than 2.5%, and no more than 5.0%, per year.

3. Hours of Operation. Paragraph 3 shall be amended to read:

The Science Museum and the Museum Store shall be open to the public a minimum of thirty three (33) hours per week, at least 12 hours of which shall fall on a weekend, and of those hours, no less than six (6) hours shall be on Sunday. As used in this paragraph, "Open to The Public" means open to any person seeking admission to the Science Museum or the Museum Store off the street. However, this paragraph shall not prevent The WOW from charging a fee for admission to the Science Museum. Failure of The WOW to be open as set forth above starting August 1, 2009 shall be deemed a material breach of the Lease.

4. Term. Paragraph 5 of the lease shall be amended to read:

The term of this Lease shall be for a period of seven (7) years commencing February 1, 2007 and ending January 31, 2014, pursuant to the provisions of Government Code Section 37380.

5. Tenant Improvements. Subparagraph (c) of Paragraph 7 shall be amended to read as follows:

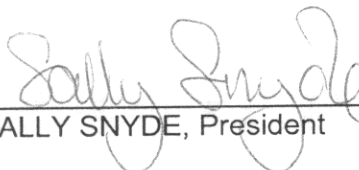
c. Construction Timeline. The WOW has completed the Tenant Improvements for the north half of the Premises. However, the southern portion of the premises has unanticipated roof leaks and evidence of mold that must be resolved prior to completion of the tenant improvements. The Tenant Improvements for the south half of the Premises will be completed within twelve (12) months of the roof repairs and other structural issues. Failure of The WOW to complete construction of Tenant Improvements as set forth above shall be deemed a material breach of the Lease.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first hereinabove mentioned.

CITY OF LODI,
a municipal corporation

WORLD OF WONDERS SCIENCE MUSEUM,
a California Nonprofit Corporation

BLAIR KING, City Manager

By 
SALLY SNYDE, President

ATTEST:

RANDI JOHL, J.D., City Clerk

APPROVED AS TO FORM:

D. STEPHEN SCHWABAUER
City Attorney



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Introduce Ordinance Amending Municipal Code Title 13 – Public Services, by Repealing and Reenacting Chapter 13.12 “Sewer Service” in its Entirety,

MEETING DATE: February 4, 2009

PREPARED BY: City Attorney

RECOMMENDED ACTION: Introduce Ordinance Amending Municipal Code Title 13 – Public Services, by Repealing and Reenacting Chapter 13.12 “Sewer Service” in its Entirety.

BACKGROUND INFORMATION: Recent changes to federal sewer pretreatment standards require the City to amend its sewer pretreatment Ordinance to be consistent with those changes. A redline strikeout draft of the changes is attached. Although there are several changes, the primary change is to increase the monitoring and reporting requirements. Although these changes do not directly increase pretreatment standards and costs to the City’s industrial users, the increased monitoring and reporting could indirectly increase pretreatment costs by revealing currently unknown discharges in excess of current standards. Adopting these changes is a condition of maintaining the City’s discharge permit.

FISCAL IMPACT: None.

FUNDING AVAILABLE: Not Applicable.

Steve Schwabauer, City Attorney

APPROVED: _____
Blair King, City Manager

ORDINANCE NO. ____

AN ORDINANCE OF THE LODI CITY COUNCIL
AMENDING LODI MUNICIPAL CODE BY REPEALING
AND REENACTING CHAPTER 13.12 – SEWER SERVICE
IN ITS ENTIRETY

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BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

Chapter 13.12
SEWER SERVICE*

Article I
General Provisions

- 13.12.010 Purpose and policy.
- 13.12.020 Definitions.

Article II
Discharge Restrictions

- 13.12.030 Prohibited discharges.
- 13.12.040 Storm drainage and groundwater.
- 13.12.060 Septic tanks.
- 13.12.065 Trucked/Hauled Wastes.
- 13.12.070 Radioactive wastes.
- 13.12.080 Garbage grinders.
- 13.12.090 Direct discharge-Use of service sewer.
- 13.12.100 Holding tank waste.
- 13.12.110 Restricted discharges.
- 13.12.115 Grease, oil and sand interceptors.
- 13.12.120 Federal pretreatment requirements.
- 13.12.125 Required Reports.
- 13.12.130 Industrial waste permits.
- 13.12.140 Other legal restrictions.
- 13.12.150 Connections outside city.
- 13.12.160 Screening of industrial waste.

Article III
Service Charges and Capacity Fees

- 13.12.170 Classification.
- 13.12.180 Domestic system service charges.
- 13.12.190 Domestic system capacity or impact fees.
- 13.12.195 Downtown business district capacity fees.
- 13.12.200 Industrial system service charges.
- 13.12.210 Industrial system capacity fees.
- 13.12.215 Adjustments and additions.
- 13.12.220 Storm drain and cooling water service charges.
- 13.12.230 Holding tank waste charges.
- 13.12.240 Charges and fees.
- 13.12.250 Billing and collections.
- 13.12.260 Appeals.

Article IV
Construction Generally

- 13.12.270 Permit.
- 13.12.280 Design standards.
- 13.12.290 Application for service.

Article V
Extensions

- 13.12.300 Purpose.
- 13.12.310 Application.
- 13.12.320 Applicant's obligation.
- 13.12.330 Extension for full frontage width.
- 13.12.340 Minimum diameter.
- 13.12.370 Reimbursement-Oversize mains.

Article VI
Administration

- 13.12.420 Discharge reports.
- 13.12.430 Discharge permit-Required.
- 13.12.440 Discharge permit-Optional.
- 13.12.450 Discharge permit-Application.
- 13.12.460 Discharge permit-Conditions.
- 13.12.470 Discharge permit-Term-Changes-Renewal.
- 13.12.480 Discharge permit-Transfer.
- 13.12.490 Discharge permit-Suspension.
- 13.12.500 Discharge permit-Revocation.
- 13.12.510 Monitoring facilities.
- 13.12.520 Inspection, sampling, monitoring and analysis.
- 13.12.530 Accidental discharge prevention.
- 13.12.540 Confidential information.
- 13.12.550 Special agreements.

Article VII
Enforcement

- 13.12.560 Accidental discharge notice.
- 13.12.565 Notice of Potential Problems/Slug Discharge.
- 13.12.567 Notice of Changed Discharge.
- 13.12.570 Cease and desist order.
- 13.12.580 Compliance timetable.
- 13.12.590 Appeals.
- 13.12.600 Liability.
- 13.12.610 Injunction.
- 13.12.620 Damage to sewerage system-Charge.
- 13.12.630 Civil penalties.
- 13.12.640 Termination of service.
- 13.12.650 Public notice of violation.

Article I
General Provisions

- 13.12.010 Purpose and policy.

These wastewater discharge regulations set uniform requirements for discharges of domestic, industrial waste and storm drainage water into the city sewerage system to enable the city to comply with the administrative provisions of the Clean Water Grant Regulations, water quality requirements set by the Regional Water Quality Control Board and the applicable effluent limitations, national standards of performance, toxic and pretreatment effluent standards, and any other discharge criteria which are required or authorized by state or federal law, and to derive the maximum public benefit by regulating the quality and quantity of wastewater discharged into those systems. **To the extent Federal or State requirements and any amendments thereto are more stringent or different than the provisions provided herein (including 40 CFR 403) such provisions shall control.**

13.12.020 Definitions.

Unless otherwise defined in this chapter, terms shall be as adopted in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation. Waste constituents and characteristics shall be measured by the approved methods as defined below. The following words shall have these meaning(s):

1. "Approved methods" means the analytical methods listed in the Federal Register 40 CFR Part 136, unless expressly stated, or as established by federal or state regulatory agencies.
2. **"Authorized Representative" means a person duly authorized by corporate resolution or other legally enforceable authorizing document on file with the POTW to perform all acts required by this Chapter.**
3. "Bedroom(s)" means room(s) of a residential user designed or used primarily for sleeping purposes, as determined by the city, based on criteria such as those rooms having closets.
4. "Biochemical oxygen demand (BOD)" means the amount of dissolved oxygen required to meet the metabolic needs of aerobic microorganisms in water containing organic matter as determined by approved methods and, unless otherwise noted, exerted in a period of five days at twenty degrees Celsius.
5. "By-pass" means an intentional diversion of waste or wastewater from any portion of an industrial user's treatment facility.
6. "Capacity" or "impact fee" means a charge as described in this chapter, levied on construction or on new, expanded, or ongoing activity, which uses publicly-owned treatment works (POTW) capacity and other wastewater facilities associated with growth. The fee is normally paid at the time of issuance of a building permit.
7. "Chemical oxygen demand (COD)" means the oxygen equivalent of that portion in a sample that is susceptible to oxidation by a strong chemical oxidant as determined by approved methods.
8. "Commercial user" means any user of the sewerage system except those specifically classified as residential user or industrial user.

9. "Community sewer or collection system" means a sewer owned and operated by the city tributary to the treatment plant. It includes, but is not limited to, sanitary and industrial, pumping stations, siphons, canal crossings, manholes and sewers leading from the property line or easement line to the collection sewer.
10. "Compatible pollutant" means biochemical oxygen demand, suspended solids and fecal coliform bacteria, plus additional pollutants identified in the city's National Pollutant Discharge Elimination System (NPDES) permit.
11. "Contamination" means an impairment of the quality of the receiving waters by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease.
12. "Control Authority" means the White Slough Water Pollution Control Facility.
13. "Dissolved solids" means residue upon evaporation of water after filtration as determined by approved methods. Also termed "total dissolved solids" or "TDS."
14. "Domestic sewage" means the waterborne wastes derived from the ordinary living processes and of such character as to permit satisfactory disposal, without special treatment, into the domestic system.
15. "Domestic system or sanitary sewer system" means a portion of the sewerage system and treatment facility used primarily for domestic sewage.
16. "Employee" means, for "unit of measure" purposes, the total number of all classifications of employees from all shifts that physically work at the site producing the wastewater discharge. Temporary or part-time employees shall be prorated to their time equivalent to a full time employee.
17. "Federal Act or Federal Regulations" means the Federal Water Pollution Control Act, PL 92-500, and any amendments thereto; as well as any guidelines, limitations and standards promulgated by the Environmental Protection Agency pursuant to the Act including the Federal Register, 40 CFR Subchapter IV for pretreatment regulations and the Federal Clean Water Act.
18. "Fixed total dissolved solids" means residue upon evaporation of water and heating to five hundred and fifty degrees centigrade after filtration as determined by approved methods.
19. "Gpd or gpd" means gallons per day.
20. "High strength user" means a user with discharge volume in excess of 2.0 MGY or a daily average waste strength in excess of the limitations in Section 13.12.110 or in excess of either three hundred milligrams per liter BOD or three hundred milligrams per liter SS or nine hundred milligrams per liter COD or as determined by the public works director.
21. "Holding tank waste" means any domestic waste from holding tanks, contained in vessels, chemical toilets, campers, trailers, septic tanks, vacuum tank trucks, or other stationary or mobile sources.
22. "Industrial system" means the portion of the sewerage system used primarily for

industrial waste, which is compatible for discharging directly into the ponding and irrigation system at the treatment plant. Waste not suitable for direct application to land is prohibited in the industrial system, which includes, but is not limited to, contents of chemical toilets, septic tanks, waste holding tanks, waste sumps, and domestic sewage.

23. "Industrial user" means a user subject to regulation by Clean Water Act Section 307(b), (c) or (d) or 40 CFR 403.3(i) and (j) who discharges industrial waste into the sewerage system.

24. "Industrial waste" means the waterborne waste and wastewater from any production, manufacturing or processing operation of whatever nature, including institutional and commercial operations, where water is used for the removal of significant quantities of waste other than from human habitation of premises connected to the domestic or industrial sewers. Contents of chemical toilets, septic tanks, waste holding tanks and waste sumps shall not be classed as industrial waste.

25. "Interference" means the inhibition or disruption of the sewer system, treatment processes or operations of the treatment plant which contributes to the violation of its discharge requirements including inhibition or disruption of sludge disposal practices or compliance with any of the statutory authorities listed in the Federal Register 40 CFR Part 403.3(k).

26. "mgd" or "MGD" is the abbreviation for million gallons per day.

27. "MGY" is the abbreviation for million gallons per year.

28. "Mass emission rate" means the weight of material discharged into the sewerage system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combination of constituents.

29. "Moderate strength user" means users with a wastewater strength of less than three hundred milligrams per liter of BOD and SS and having a waste flow less than 2.0 MGY.

30. "National pretreatment standard, pretreatment standard or standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Clean Water Act Section 307(b) and (c) which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to 40 CFR 403.5.

31. "Natural outlet" means any outlet into a watercourse, ditch, pond, lake or other body of surface water or groundwater.

32. "New source" means an industrial user discharging, or planning to discharge, from a source at which:

- A) Construction is carried out at a site at which no other source is located;
- B) Construction totally replaces the process, or production equipment that produces, the wastewater at an existing source; or
- C) The wastewater producing process constructed is substantially independent of an existing source at the same site.

33. "Nuisance" means anything which is injurious to health, or is offensive to the senses, or

an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property, or which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

34. "Pass through" means the introduction of a pollutant by a user into the sewerage system which leaves the treatment plant in quantities or concentrations that alone or in conjunction with other sources, cause a violation of the city's discharge requirements.

35. "Permit" means wastewater discharge permit issued by the public works department.

36. "Person" means any individual, partnership, firm, association, corporation or public agency, including the state of California and the United States of America.

37. "pH" means the negative logarithm of the hydrogen-ion activity in moles per liter of solution as determined by approved methods.

38. "Pollutant" means any substance which can cause pollution.

39. "Pollution" means an alteration of the quality of the receiving waters by waste to a degree which unreasonably affects such waters for beneficial use or facilities which serve such beneficial uses. Pollution may include, but not be limited to, contamination.

40. "Pretreatment" means the treatment or flow limitation of industrial wastes prior to discharge to the city sewerage system.

41. "Pretreatment Requirements" means any substantive or procedural requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on an industrial user (40 CFR 403.3(t)).

42. "Private sewer, building sewer or house service sewer" means that part of the building sewer beginning at the junction, thereof, with the building plumbing or drainage system and terminating at the property line or at the easement line.

43. "Publicly owned treatment works (POTW)" means any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. This includes sewers, pipes and other conveyances if they convey wastewater to a POTW treatment plant.

44. "Residential user" means a single-family house or each unit of a duplex, flat, group dwelling, apartment or any other living accommodation which has facilities for sleeping and the preparation of food, whether sanitary facilities connected to the collection system are provided for the occupants, thereof, whether or not such sanitary facilities are installed therein or connected thereto; living accommodations designed or used for short-term transient lodging which are rented to other than the controlling occupant of the premises shall be considered as a commercial unit.

45. "Settleable solids" means that portion of matter present in sewage, industrial waste or waters introduced into the storm drains that readily settles out of the carrier liquid in a quiescent state as determined by approved methods.

46. “Sewage” means the waterborne wastes received from human habitation and use of premises for residential, commercial, institutional and industrial purposes.

47. “Sewage service charge” means a regular charge for each user based upon each user’s proportional use of the sewerage system.

48. “Sewage service unit” or “SSU” is defined as each increment of flow equal to the flow from an average two-bedroom residence (one-hundred and ninety-four gallons per day) and having a strength less than three hundred milligrams per liter biochemical oxygen demand (BOD) and suspended solids (SS).

49. “Sewer” means a pipe or conduit which carries sewage and/or industrial wastes and to which storm, surface and ground waters are not intentionally admitted. When used in this chapter, “sanitary sewer” means those pipelines operated primarily for the collection of domestic sewage. “Industrial sewer” means those pipelines operated primarily for the collection of industrial waste.

50. “Sewerage system” means all works for collecting, pumping, treating, disposing, storing or reclaiming sewage, industrial waste and/or storm water.

51. “Significant Industrial user” means:

- (A) All Industrial Users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, subchapter N; and
- (B) Any other Industrial User that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW Treatment plant; or is designated as such by the Control Authority on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW’s operation or for violating any Pretreatment Standard or requirement (in accordance with 40 CFR 403.8(f)(6)). (40 CFR 403.3(v)(1))

52. “Significant Noncompliance” means a violation meets one or more of the following criteria:

- (A) Chronic violations of wastewater Discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);
- (B) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

- (C) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other Discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);
- (D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph (f) (1)(vi)(B) of 40 CFR 403.8 to halt or prevent such a discharge;
- (E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (F) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (G) Failure to accurately report noncompliance;
- (H) Any other violation or group of violations, which may include a violation of Best Management Practices, which the City determines will adversely affect the operation of implementation of the local Pretreatment program.

53. "Slug" means a sudden large increase or decrease (factor of two or more) from normal waste volume or concentration.

54. "Slug discharge" means any discharge of a nonroutine, episodic nature including but not limited to, an accidental spill or a noncustomary batch discharge.

55. "Storm drain system" means any portion of the sewerage system used for the conveyance of stormwater or surface or subsurface drainage water.

56. "Storm sewer" means those pipelines operated primarily for the collection of stormwaters.

57. "Suspended solids" or "SS" or "TSS" means that portion of residue present in sewage, industrial waste or waters introduced into the storm drains that is retained on a filter (nonfilterable) as determined by approved methods.

58. "Treatment plant" means the White Slough Water Pollution Control Facility of the city, and includes but is not limited to the domestic sewage treatment facilities, industrial waste treatment facilities, sludge disposal facilities and irrigatable lands.

59. "Unpolluted water" means water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the agency having jurisdiction, thereof, for disposal to the storm drain system or natural drainages or directly to surface waters.

60. "User" means any person that discharges, causes or permits the discharge of wastewater or stormwater into a sewerage system.

61. "Waste" includes sewage and any and all other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation, or of human or animal origin, or from any producing, washing, manufacturing or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.

62. "Wastewater" means waste and water, whether treated or untreated, discharged into or permitted to enter a sewer.

63. "Wastewater constituents and characteristics" means the individual chemical, physical, bacteriological and radiological parameters and such other parameters that serve to define, classify or measure the contents, quality and strength of wastewater as determined by a state certified laboratory, and the volume, rate of flow or other parameters that serve to define quantity.

64. "Wastewater discharge permit" means a permit issued by the city for a user to discharge into a sewerage system.

Article II Discharge Restrictions

13.12.030 Prohibited discharges.

No person shall discharge into the sewerage system, natural outlet, street or earth surface, wastes which cause, threaten to cause, or are capable of causing, either alone or by interaction with other substances, any of the following:

A. Fire or explosion or injury in any way to the sewerage system or the operation of the treatment plant. Prohibited materials include, but are not limited to, gasoline, kerosene, alcohols, solvents, sulfides or any other substance with a closed cup flashpoint of less than one hundred forty degrees Fahrenheit or (sixty degrees Celsius) using the test methods specified in 40 CFR 261.21 or which causes two consecutive readings on an explosion hazard meter at any point in the sewerage system to be more than five percent, or any single reading more than ten percent of the lower explosive limit (LEL);

B. Obstruction of flow in a sewerage system or injury of the system or damage to the sewerage collection, or treatment facilities by ashes, cinders, sand, mud, grit, straw, offal, shavings, metal, glass, rags, feathers, tar, plastics, wood, sawdust, manure or other solid or viscous substances capable of causing obstruction of the flow or other interference with the proper operation of the sewerage system as determined by the public works director;

C. Acute worker health and safety problems resulting from the presence of toxic gases, vapors or fumes within the POTW per 40 CFR 403.5(b)(7);

D. A nuisance or prevention of the effective maintenance or operation of the sewerage system, through having or creating a strong, unpleasant odor;

E. Air pollution by the release of toxic or malodorous gases or malodorous gas-producing substances;

F. Interference or pass through at the treatment plant affecting wastewater treatment, land disposal or sludge or scum processing and disposal;

G. A detrimental environmental impact or a nuisance in the waters or wastewaters of the state or a condition unacceptable to any public agency having regulatory jurisdiction over the city;

H. Discoloration, or any other condition, in the quality of the city's treatment plant effluent and/or storm system discharge in such a manner that receiving water quality requirements established by law or other contracts cannot be met by the city;

I. Conditions at or near the city's treatment facilities which violate any statute or rule, regulation or ordinance of any public agency of state or federal regulatory body;

J. Quantities or rates of flow or pollutants which cause interference or overload the city's sewerage system or treatment facilities or cause excessive city collection or treatment costs or hamper treatment facility operation;

K. Pollutants which can cause corrosive structural damage to the sewerage system or treatment facilities;

L. Influent to the treatment plant to be over one hundred four degrees Fahrenheit (forty degrees Celsius);

M. Waters or waste with a pH factor lower than 6 or higher than 11;

N. Any discharge which has an average daily concentration exceeding the following technically based local limits:

Toxicant	Maximum Allowable Concentration (mg/L)
Arsenic	2.5
Cadmium	0.5
Chromium, total	29
Copper	3.0
Cyanide, total	1.4
Lead	4.0
Mercury	0.8
Nickel	13
Silver	2.9
Zinc	3.5

O. Discharges of new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit per 40 CFR 403.8(f)(1)(i);

P. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origins in amounts that will cause interference or pass through;

Q. Discharges which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261;

R. Discharges containing concentrations of tetrachloroethylene (PCE) or trichloroethylene (TCE) exceeding five micrograms per liter for any grab sample.

13.12.040 Storm drainage and groundwater.

Rainwater, groundwater, street drainage, subsurface drainage, roof downspouts, exterior foundation drains, groundwater from cleanup operations, or other sources of drainage water shall not be discharged through direct or indirect connections into a domestic system.

13.12.060 Septic tanks.

No person shall use a septic tank for disposal of wastewater if the property to be served is within one hundred feet of the domestic system unless permitted by the public works director. Where such domestic sewer exists and buildings are inhabited or used by human beings, the property owner(s) shall install lateral service connection(s) in accordance with this chapter.

13.12.065 Trucked / Hauled Wastes.

No person shall discharge trucked or hauled pollutants except at discharge points designated by the City of Lodi.

13.12.070 Radioactive Wastes.

No person shall discharge or cause to be discharged any radioactive waste into a sewerage system except:

A. When the person is authorized to use radioactive materials by the State Department of Health or other governmental agency empowered to regulate the use of radioactive materials; and

B. When the waste is discharged in strict conformity with current California Radiation Control Regulations (California Administrative Code, Title 17) and the Nuclear Regulatory Commission regulations and recommendations for safe disposal; and

C. When the person is in compliance with all rules and regulations of all other applicable regulatory agencies.

13.12.080 Garbage Grinders.

A. Wastes from garbage grinders shall not be discharged into a domestic sewer system except:

1. Wastes generated in normal preparation of food by residential users; or
2. Where the user has obtained a permit for that specific use from the city, and agrees to undertake whatever self-monitoring is required to enable

the public works director to equitably determine the user charges based on the waste constituents and characteristics.

B. Garbage grinders must shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the domestic sewer. Garbage grinders shall not be used for grinding plastic, paper products, inert materials or garden refuse.

13.12.090 Direct discharge-Use of service sewer.

No person shall discharge any substances directly into a manhole or other opening in a sewerage system except through an approved private sewer or house sewer lateral.

13.12.100 Holding tank waste.

A user proposing to discharge holding tank domestic waste into a domestic sewer must secure a permit for each separate discharge. This permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge, the wastewater constituents and characteristics and origin of such wastes. Holding tank wastes discharged at the treatment plant facilities may be given a discharge permit which would apply to more than one separate discharge at the discretion of the public works director. If a permit is granted for discharge of such waste into the domestic sewer, the user shall pay the applicable user charges and fees and shall meet such other conditions as required by the public works director.

13.12.110 Restricted discharges.

No person shall discharge or cause to be discharged to a sewerage system any of the following without first obtaining a wastewater discharge permit that specifically permits such waste discharge characteristics:

A. Discharges containing metal pickling or etching wastes or plating solutions, whether neutralized or not;

B. Discharges containing phenols or other taste-producing and odor-producing substances in concentrations exceeding limits which may be established by the public works director as necessary to meet water quality requirements;

C. Slug discharges into the collection system at temperatures exceeding one hundred forty degrees Fahrenheit (sixty degrees Celsius) or exceeding one hundred ten degrees Fahrenheit (forty-three degrees Celsius) for any eight-hour period;

D. Materials which exert or cause in the sewerage system or receiving waters unusual concentrations either of inert suspended solids (such as but not limited to, soil solids, fuller's earth, lime slurries, lime residues, plastics or ash);

E. Discharges containing fixed total dissolved solids (such as, but not limited to, sodium chloride, sodium sulphate or other inorganic salts) in such quantities to cause the effluent TDS of the treatment plant to exceed five hundred milligrams per liter.

13.12.115 Grease, oil and sand interceptors.

Grease, oil and sand interceptors shall be provided by the discharger when they are necessary for the proper handling of wastes containing grease in excess of one hundred fifty milligrams per liter of animal and vegetable origin and fifty milligrams per liter of mineral origin, or any flammable wastes, sand, grit and other harmful ingredients. All interceptors shall be of a type and capacity approved in writing, prior to installation, by the public works director, and shall be located so as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, usually a minimum of one thousand gallons and equipped with easily removable covers which, when bolted in place, are gastight and watertight. Grease and/or oil/sand interceptors shall be constructed in any place or building having a capacity to serve group meals or commercial and industrial cleaning facilities. Where installed, all grease, oil, sand and grit interceptors shall be maintained by the owners at owner's expense in continuous efficient operation at all times. Materials collected shall not be reintroduced into the sewerage system. Records of all maintenance, cleaning and hauling of materials shall be maintained by the owner and such records shall be available at all times for inspection by city personnel. (Ord. 1613 (part), 1995)

13.12.120 Federal pretreatment requirements.

Users in industrial categories subject to the categorical pretreatment standards development by the EPA under the Clean Water Act of 1977 (PL 95 217) 33 U.S.C. 1251 et seq. are required to achieve limitations based on best practical control technology (BPT) immediately and best available technology economically achievable (BAT) by July 1, 1983, in accordance with Sections 301 and 304. New sources are required to comply with new source performance standards (NSPS) based on best available demonstrated control technology (BDT) for industrial users in terms of concentration and equivalent mass values. Users must comply with pretreatment standards promulgated pursuant to Section 307 and the Federal Register 40 CFR Subchapter IV. Dilution of any discharge may not be used to comply with any pretreatment standards. **Categorical industrial users must submit baseline monitoring reports, compliance schedule reports, ninety-day compliance reports, and periodic reports on continued compliance as required including all information required by 40 CFR 403.12(I) and such reports must be signed by an Authorized Representative of the industrial user and meet certification requirements of 40 CFR 403.6(a)(2)(ii) and 403.12(b)(6) and be retained for a minimum of three years (or period of litigation, whichever is longer). The city may issue standards more stringent than the federal standards if the public works director determines that the limitations in the federal standards are not sufficient to:**

- A. Protect the operation of the city's treatment facilities; or
- B. Comply with water quality standards, sludge disposal or effluent limitations specified in the city's National Pollutant Discharge Elimination System (NPDES) permit;
- C. Meet technically based local limits, which must be calculated per federal pretreatment program guidelines. The city must annually provide public notification of industrial users which during the previous twelve months significantly violated applicable pretreatment standards.

13.12.125 Required Reports.

The reports required by Section 13.12.120 shall comply with the following regulations:

A. Baseline Report:

1) Reporting requirements for industrial users upon effective date of categorical pretreatment standard-baseline report. Within 180 days after the effective date of a categorical Pretreatment Standard, or 180 days after the final administrative decision made upon a category determination submission under §403.6(a)(4), whichever is later, existing Industrial Users subject to such categorical Pretreatment Standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the Control Authority a report which contains the information listed in paragraphs (b)(1)-(7) of 40CFR 403.12(b)(1)-(7). At least 90 days prior to commencement of discharge, New Sources, and sources that become Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall be required to submit to the Control Authority a report which contains the information listed in paragraphs (b)(1)-(5) of 40CFR 403.12. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New Sources shall give estimates of the information requested in paragraphs (b)(4) and (5) of 40 CFR 403.12.

- (a) Identifying information. The User shall submit the name and address of the facility including the name of the operator and owners;
- (b) Permits. The User shall submit a list of any environmental control permits held by or for the facility;
- (c) Description of operations. The User shall submit a brief description of the nature, average rate of production, and Standard Industrial Classification of the operation(s) carried out by such Industrial User. This description should include a schematic process diagram which indicates points of Discharge to the POTW from the regulated processes.
- (d) Flow measurement. The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
 - (i) Regulated process streams; and
 - (ii) Other streams as necessary to allow use of the combined wastestream formula of §403.6(e). (See paragraph (b)(5)(iv) of 40 CFR 403.12.

The Control Authority may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

- (e) Measurement of pollutants.

- (i) The user shall identify the Pretreatment Standards applicable to each regulated process;
- (ii) In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the Standard or Control Authority) of regulated pollutants in the Discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the Control Authority or the applicable Standards to determine compliance with the Standard;
- (iii) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
- (iv) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula of Sec. 403.6(e) in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with Sec. 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;
- (v) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the Administrator;
- (vi) The Control Authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

- (vii) The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW;
- (f) Certification. A statement, reviewed by an authorized representative of the Industrial User (as defined in paragraph (l) of this section) and certified to by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and M) and/or additional Pretreatment is required for the Industrial User to meet the Pretreatment Standards and Requirements; and
- (g) Compliance schedule. If additional pretreatment and/or O and M will be required to meet the Pretreatment Standards; the shortest schedule by which the Industrial User will provide such additional pretreatment and/or O and M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.
- (i) Where the Industrial User's categorical Pretreatment Standard has been modified by a removal allowance (Sec. 403.7), the combined wastestream formula (Sec. 403.6(e)), and/or a Fundamentally Different Factors variance (Sec. 403.13) at the time the User submits the report required by paragraph (b) of this section, the information required by paragraphs (b)(6) and (7) of 40 CFR 403.12 shall pertain to the modified limits.
 - (ii) If the categorical Pretreatment Standard is modified by a removal allowance (Sec. 403.7), the combined wastestream formula (Sec. 403.6(e)), and/or a Fundamentally Different Factors variance (Sec. 403.13) after the User submits the report required by paragraph (b) of this section, any necessary amendments to the information requested by paragraphs (b)(6) and (7) of 40 CFR 403.12 shall be submitted by the User to the Control Authority within 60 days after the modified limit is approved.
- 2) Compliance schedule for meeting categorical Pretreatment Standards. The following conditions shall apply to the schedule required by paragraph (b)(7) of 40 CFR 403.12:
 - (a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Industrial User to meet the applicable categorical Pretreatment Standards (e.g., hiring an

engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc).

- (b) No increment referred to in paragraph (2)(a) of this section shall exceed 9 months.
- (c) Not later than 14 days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the Control Authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the Industrial User to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the Control Authority.

B. Compliance Report:

Report on compliance with categorical pretreatment standard deadline. Within 90 days following the date for final compliance with applicable categorical Pretreatment Standards or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any Industrial User subject to Pretreatment Standards and Requirements shall submit to the Control Authority a report containing the information described in paragraphs (b) (4)-(6) of 40 CFR 403.12. For Industrial Users subject to equivalent mass or concentration limits established by the Control Authority in accordance with the procedures in Sec. 403.6(c), this report shall contain a reasonable measure of the User's long term production rate. For all other Industrial Users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period.

C. Periodic Reports on Continued Compliance:

- (1) Any Industrial User subject to a categorical Pretreatment Standard (except a Non-Significant Categorical User as defined in Sec. 403.3(v)(2)), after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit to the Control Authority during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Control Authority or the Approval Authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical Pretreatment Standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the Discharge reported in paragraph (b)(4) of 40 CFR 403.12 except that the Control Authority may require more detailed reporting of flows. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the User shall submit documentation

required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the User. At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may modify the months during which the above reports are to be submitted.

- (2) The Control Authority may authorize the Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:

- (i) The Control Authority may authorize a waiver where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.
- (ii) The monitoring waiver is valid only for the duration of the effective period of the Permit or other equivalent individual control mechanism, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism.
- (iii) In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

The request for a monitoring waiver must be signed in accordance with paragraph (I) of this section and include the certification statement in Sec. 403.6(a)(2)(ii). Non-detectable sample results may only be used as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

- (iv) Any grant of the monitoring waiver by the Control Authority must be included as a condition in the User's control mechanism. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Control Authority for 3 years after expiration of the waiver.

- (v) Upon approval of the monitoring waiver and revision of the User's control mechanism by the Control Authority, the Industrial User must certify on each report with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR ----- specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of ----- [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under 40 CFR 403.12(e)(1).

- (vi) In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of paragraph (e)(1) of 40 CFR 403.12 or other more frequent monitoring requirements imposed by the Control Authority; and notify the Control Authority.

- (vii) This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

- (3) The Control Authority may reduce the requirement in paragraph (e)(1) of 40 CFR 403.12 to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the Approval Authority, where the Industrial User meets all of the following conditions:

- (i) The Industrial User's total categorical wastewater flow does not
 - (A) 0.01 percent of the design dry weather hydraulic capacity of the POTW, or 5,000 gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches;
 - (B) 0.01 percent of the design dry weather organic treatment
 - (C) 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical Pretreatment Standard for which approved local limits were developed by a POTW in accordance with Sec. 403.5(c) and paragraph (d) of 40 CFR 403.12;

- (ii) The Industrial User has not been in significant noncompliance, as defined in Sec. 403.8(f)(2)(viii), for any time in the past two years;
 - (iii) The Industrial User does not have daily flow rates, production levels, or pollutant levels that vary so significantly that decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period pursuant to paragraph (g)(3) of 40 CFR 403.12;
 - (iv) The Industrial User must notify the Control Authority immediately of any changes at its facility causing it to no longer meet conditions of paragraphs (e)(3)(i) or (ii) of 40 CFR 403.12. Upon notification, the Industrial User must immediately begin complying with the minimum reporting in paragraph (e)(1) of 40 CFR 403.12; and
 - (v) The Control Authority must retain documentation to support the Control Authority's determination that a specific Industrial User qualifies for reduced reporting requirements under paragraph (e)(3) of 40 CFR 403.12 for a period of 3 years after the expiration of the term of the control mechanism.
- (4) For Industrial Users subject to equivalent mass or concentration limits established by the Control Authority in accordance with the procedures in Sec. 403.6(c), the report required by paragraph (e)(1) of 40 CFR 403.12 shall contain a reasonable measure of the User's long term production rate. For all other Industrial Users subject to categorical Pretreatment Standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by paragraph (e)(1) shall include the User's actual average production rate for the reporting period.

D. Categorical Pretreatment Standard Compliance Reports

Significant Non-categorical Industrial Users must submit to the Control Authority at least once every six months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. In cases where a local limit requires compliance with a Best Management Practice or pollution prevention alternative, the User must submit documentation required by the Control Authority to determine the compliance status of the User. These reports must be based on sampling and analysis performed in the period covered by the report, and in accordance with the techniques described in part 136 and amendments thereto. This sampling and analysis may be performed by the Control Authority in lieu of the significant non-categorical Industrial User.

- E.** The reports required by Paragraphs A, B, C and D at this Section must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period as required by 40 CFR 403.12(g)(3).

F. If any Industrial User subject to the reporting requirement in Paragraphs C or D of this Section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Control Authority, using the procedures prescribed below, the results of this monitoring shall be included in the report.

- (1) All analyses shall be performed in accordance with procedures established by the Administrator pursuant to section 304(h) of the Act and contained in 40 CFR part 136 and amendments thereto or with any other test procedures approved by the Administrator. (See, Sec. Sec. 136.4 and 136.5.) Sampling shall be performed in accordance with the techniques approved by the Administrator. Where 40 CFR part 136 does not include sampling or analytical techniques for the pollutants in question, or where the Administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the Administrator.

13.12.130 Industrial waste permits.

Source control of industrial discharges shall be accomplished by use of a permit and monitoring system as described in this chapter. Discharge of industrial waste from any person within the city onto land or to any natural outlet may be permitted only if the discharge complies with all requirements of the regional water quality control board and of all other local, state and federal laws and regulations.

13.12.140 Other legal restrictions.

Nothing contained in this chapter shall be construed to limit any additional requirements that may be imposed by the county health officer, by the regional water quality control board, fish and game, or by other governmental agencies having jurisdiction.

13.12.150 Connections outside city.

A. Whereas:

1. San Joaquin County will retain its authority over land use approval for wineries located within county jurisdiction.
2. The city of Lodi's general plan contains the following land use element goals:
 - a. Policy LU-A.1 — The city shall seek to preserve Lodi's small-town and rural qualities.
 - b. Policy LU-A.4 — The city shall promote reinvestment in downtown Lodi and in the Eastside area that upgrades the general quality of development in these areas.

- c. Goal LU-B — To preserve agricultural land surrounding Lodi and to discourage premature development of agricultural land with nonagricultural uses, while providing for urban needs.
 - d. Policy LU-B.1 — The city shall encourage the preservation of agricultural land surrounding the city.
 - e. Policy LU-B.2 — The city should designate a continuous open space greenbelt around the urbanized area of Lodi to maintain and enhance the agricultural economy.
 - f. Policy LU-B.6 — The city shall encourage San Joaquin County to retain agricultural uses on lands adjacent to the city.
 - g. Goal LU-D — To promote and retain development in downtown Lodi.
 - h. Policy LU-D.1 — The city shall preserve and promote downtown Lodi and the city's social and cultural center and an economically viable retail and professional office district.
 - i. Policy LU-D.3 — The city shall enhance pedestrian activity and pedestrian amenities in downtown Lodi.
3. The city encourages compact development and discourages leapfrog development and urban sprawl within the Highway 12/Interstate 5 corridor, all of which would be inconsistent with the above general plan goals. The city's general plan is committed to the above goals within its own boundaries as well, stating the following:
- a. A-5 The city shall require specific development plans in areas of major new development.
 - b. E-2 The city shall promote downtown Lodi as the primary pedestrian-oriented, commercial area of Lodi.
 - c. E-4 The city shall ensure the new commercial development be designed to avoid the appearance of strip development.
 - d. E-7 In approving new commercial projects, the city shall seek to ensure that such projects reflect the city's concern for achieving and maintaining high quality development.
4. Providing wastewater treatment service to Flag City on the condition that service not be afforded to developments that conflict with the goals set forth herein furthers those goals by concentrating development in an existing county service area with set boundaries.
5. County acknowledges the goals set forth in the Lodi general plan as set forth above and has similar provisions in its general plan which

encourage agricultural uses, compact land use and development, and discourage “leap frog development” and “urban sprawl.” Toward these ends, the county general plan provides:

- a. To make efficient use of land and promote a functional development pattern with varied and compatible land uses.
- b. To minimize the effect on agricultural lands and other environmental resources while providing for orderly growth.
- c. To create a visually attractive county.
- d. To avoid the problems and costs imposed on local government by development that does not have adequate services.
- e. Rural communities shall:
 - i. Be planned to have minimal growth, mainly infill development, with expansion discouraged;
 - ii. Be planned to serve the immediate needs of the community's residents or the surrounding agricultural community;
 - iii. Have a minimum land area of fifty acres or have been identified on the general plan 1995 map as a residential area.
- f. Development shall be orderly and compact.
- g. Development should occur on vacant lots within existing communities as “infill” before extending beyond the current developed areas of a community.
- h. Freeway Service.
 - i. Function. Provide for commercial uses oriented almost exclusively to serving the needs of the freeway traveler.
 - ii. Typical Uses. Travel-related businesses including gasoline service stations, food and beverage sales, eating and drinking establishments, and hotels and motels.
 - iii. Development and Locational Criteria. Freeway Service areas shall be:
 - (A) Designated only adjacent to full freeway interchanges where development will be easily accessible and visible to the freeway traveler.

- (B) Limited in number to encourage clustering of uses at selected interchanges;
- (C) Limited in area in order to reduce impacts on surrounding land uses and control the physical and visual extent of these areas;
- (D) Developed so that buildings occupy no more than sixty percent of the lot and are no more than three stories in height; and
- (E) Designed in an attractive manner that creates a favorable impression of the county by considering the overall site design, landscaping, scale of development, signage, relationship to adjacent uses, circulation and parking, and architecture.

6. There is a need for upgraded sewer treatment facilities to service Flag City and the parties wish to cooperatively ensure that any development that occurs in Flag City is orderly, compact and in compliance with the goals of the city and county general plans.

B. Now therefore be it further ordained as follows:

1. Service Outside Lodi. Except as set forth below, no discharge from private facilities or properties outside the city of Lodi shall be allowed into the domestic sewerage or storm drainage systems. The city council may by contract allow connection from: (1) winery facilities outside Lodi to the industrial sewerage system on the terms set forth in this section so long as the system has adequate existing capacity to service the waste (2) publicly owned wastewater systems ("public district") to the domestic wastewater treatment system on terms set forth in this section so long as the system has adequate existing capacity to service the waste.
2. Terms of Private Industrial Connection. Any winery wastewater connection permitted pursuant to the contract called for in this section shall contain the following minimum terms:
 - a. Permit. Applicant shall comply with the terms of the industrial system discharge permit to be issued by the city, which will include but not be limited to limitations on flow, BOD, ph, TDS, and suspended solid concentrations and prohibitions on discharge of hazardous waste in conformance with the city's discharge permit.
 - b. Rate/Surcharge. Winery's rate for discharge shall be set at one hundred fifty percent of the city's standard published rate for industrial waste.

- c. Capacity Charge. Winery shall pay a one-time capacity charge based on annual flow and BOD loading prior to connection per this chapter.
 - d. Non-Assignment. Applicant may not sell capacity or accept wastewater from other locations.
 - e. Downtown Retail Presence. Applicant shall open and operate a wine tasting room to market its products in downtown Lodi during the entire term of its connection to the city's sewer system. The establishment shall be operated within the following minimum requirements:
 - i. It shall be at least five hundred square feet, have its products available for sampling and sale, and be open a minimum of forty hours per week, including Saturday and Sunday and shall be located in downtown Lodi as defined by the area bordered by Church Street, Lodi Avenue, Lockeford Street, and the Union Pacific Railroad tracks.
 - ii. If this condition cannot be met within twelve months of connection, applicant shall pay an annual downtown development and promotional in-lieu fee in the amount established by the city council. The fee shall be retroactive for one year and shall be assessed annually (until such time as the requirements of subsection i of this paragraph have been satisfied) as annually adjusted according to the Bay Area-All Items Consumer Price Index. If condition i above cannot be met within six years of connection, this Agreement will terminate and applicant will be required to make alternate arrangements for its wastewater.
 - f. Annexation. Applicant, in consideration for receiving city sewer service, will consent to the annexation to the city of Lodi of its property served by the city industrial sewerage system, waives any right to protest the annexation, and assigns to the city any right to vote on the annexation. Annexation shall occur when and if the city deems the annexation of the subject property feasible and advisable. In the event the annexation is sought by applicant, applicant agrees to pay city an amount to cover the subject property's proportionate share of the costs to conduct the annexation. In the event that the applicant does ultimately connect to city service, applicant agrees to enter into a short-form memorandum of agreement expressing the obligations of this paragraph in recordable form.
3. Terms of Public District Connection. Any delivery of wastewater permitted pursuant to this section shall be subject to the following minimum terms:
- a. Permit. Public district shall comply with the terms of a discharge permit to be issued by the city which will include but not be limited

to limitations on maximum flow, BOD, ph, TDS and suspended solid concentrations and prohibitions on discharge of hazardous waste in conformance with the city's NPDES permit. The terms of this discharge permit will be no more stringent than those required under the city's NPDES permit. However, city may change the terms of the discharge permit without notice if necessary to comply with state or federal requirements.

- b. Volume. Limits will be set by contract that cannot exceed the White Slough Wastewater Treatment Plant's capacity.
- c. Rate/Surcharge. Public district's charges will be as established by the city for its high strength customer users plus a surcharge in an amount to be set by contract.
- d. Capacity Charge. Public district shall pay a one-time capacity charge based on the then-current rates for new city development at the time of connection. (These charges are adjusted annually). Additional capacity charges at the current city rates will apply for each increment of effluent over the amount initially paid. Capacity charge reductions or credits may be granted for steps taken by public district to minimize impacts to city's overall treatment plant capacity through pre-treatment, off-peak delivery, or other mutually agreed strategies.
- e. Administrative Charge. Public district shall pay city a fee to be set by contract as a one time administrative charge upon the execution of such contract.
- f. Public district will be solely responsible for all costs associated with installing a pipeline ("collection facilities") to connect to Lodi's system.
- g. City will bill for its services directly to public district and not to individual customers. Annual billing will begin with commencement of flow to the city's facility and will be billed in advance for a twelve month period, based on estimated flow and strength. Subsequent annual billings will be based on actuals for the prior twelve months. Public district will pay all invoices within thirty days of the date of the invoice.
- h. Neither public district will knowingly allow any person or entity to discharge to its collection facilities whose property is outside the public district service area, without prior city approval, which city may withhold in its absolute discretion.
- i. Reimbursement. Public district shall reimburse the city for all costs incurred by the city in connection with the project.

13.12.160 Screening of industrial waste.

No person shall discharge or cause to be discharged to the industrial system an industrial waste that is too large to pass through or, has not been pretreated by being passed through, a screening device with a maximum screen opening of 1.5 millimeters.

Article III
Service Charges and Capacity Fees

13.12.170 Classification.

All users shall be classified for wastewater collection, treatment and disposal purposes in accordance with the principal activity conducted by the person, or the quantity and quality of discharge, as determined by the public works director. The purpose of classification is to facilitate the regulation of wastewater discharge based on quantity and quality of flow, to provide an effective means of industrial waste source control, and to establish a system of sewage service charges and capacity fees which will ensure, but not be limited to, the recovery of city capital, operating and maintenance costs in an equitable manner. It is the responsibility of the user to provide the city a reasonable estimation of wastewater quantity and quality, or other applicable units of measure, and any increases thereof, for the purpose of classification and assessment of service charges and capacity fees.

13.12.180 Domestic system service charges.

A. Basis. Charges for use of the domestic system shall be determined by the volume, BOD, and SS of wastes discharged. In addition, charges for preparation and maintaining the sewer master plan, expansion of the Public Works Administration Building, and expansion of the Public Works Storage Facilities are allocated based upon volume, BOD, and SS.

B. Applicability. Those residential, commercial and industrial users whose discharge of wastes classify them as a moderate-strength user and those dischargers of industrial and commercial wastes that classify as high-strength users shall pay charges as determined in this section. Determination of the category for each specific user shall be made by the public works director.

C. Moderate-Strength Users. All moderate-strength users shall be assigned sewage service units. The minimum sewage service units assigned to any commercial and industrial user shall be 1.0 unit. Service charges for moderate-strength users shall be determined by multiplying the cost of one sewage service unit by the number of sewage service units assigned to each user.

1. Residential user sewage service units shall be based upon the number of bedrooms per dwelling units as follows:

Number of Bedrooms	Sewage Service Units
1	0.75
2	1.00
3	1.25
4	1.50
5	1.75
6	2.00
7	2.25

2. Commercial and industrial user sewage service charges shall be based on the number of sewage service units assigned to each user. The unit of measure for determining the number of sewage service units assigned to each user are as follows:

User Descriptions	Unit of Measure
1. Meeting place, religious	Each 200 seats
2. Meeting place, public	Each 100 seats
3. Hotel, motel without kitchenettes	Each 3 beds
4. Hotel, motel with kitchenettes	Each unit
5. Veterinary clinic	Each 4 employees
6. Post office	Each 15 employees
7. Funeral parlor	Each 3 employees
8. Service station with service garages	Each 2.5 pumps
9. Service station without service garages	Each 7 pumps
10. Car wash, automatic bay	20 SSU's per bay
11. Car wash, self serve bays	2 SSU's per bay
12. School, 8th grade and below	Each 20 students
13. High school	Each 15 students
14. Eating place, seating only	Each 10 seats
15. Eating place, seating and take-out	Each 7 seats
16. Eating place, "pizza parlor"	Each 35 seats
17. Eating place, take-out only	Each 5 employees
18. Lunch truck business	Each 5 employees
19. Laundry, coin-op., reg. mach.	Each 1.5 machines
20. Laundry, coin-op., big mach.	Each machine
21. Comm. laundry and dry cleaning	Each 3 employees
22. Dentist's office	Each 5 employees
23. Office, store, warehouse manufacturer, doctor's chiropractor's and X-ray offices	Each 8 employees
24. Grocery store, supermarket (having	Each 4 employees

veg/fruit or butcher/meat sections)	
25. Bar	Each 20 seats
26. Barber, beauty shop	Each 3 workstations
27. Hospital, convalescent home	Each 3 beds
28. Rest and retirement home	Each 3 beds
29. Mobile home park	Each 1.33 pads
30. RV dump station	Each station

One sewage service unit shall be assigned to each unit of measure. Fees shall be based on a minimum of one sewage service unit and fractions of sewage service units thereafter. At the discretion of the public works director, a commercial user's service charges and/or capacity fees may be based on actual wastewater discharge flows estimated by use of an influent water meter or other appropriate means.

D. High-Strength Users.

1. All high-strength user sewage service charges shall be determined based upon the actual quantity of flow, BOD and SS discharged annually.

2. The sewage service charge shall be determined by multiplying the quantity of discharged flow, BOD and SS by the cost for each characteristic.

E. Significant Users. All significant users shall be assessed two additional sewage service units in service charges to cover the city's costs of meeting Federal Pretreatment Program requirements.

13.12.190 Domestic system capacity or impact fees.

The capacity fee shall cover the capital cost associated with the POTW capacity and the planning, financing, acquisition, and development of other services and facilities directly related to the utilization of capacity by the discharger. Any actual costs incurred by the city in making the physical connection (tap) shall be separate and in addition to the capacity fee described in this section.

A. Moderate-strength user capacity fees shall be based on a rate per sewage service unit as assigned under Section 13.12.180. The capacity fee for a new commercial or industrial user shall be a minimum of one sewage service unit, and additions or modifications shall be prorated to fractions of sewage service units.

B. High-strength user capacity fees shall be based on a unit rate for flow, BOD, and SS. The estimated annual quantities of each characteristic shall be justified to, and approved by, the public works director for the purpose of determining the capacity fee.

C. City projects and projects funded by the city are exempt from capacity fees as described in this section.

13.12.195 Downtown business district capacity fees.

A. The city council finds and declares that the central area of Lodi as defined in this chapter, which is the traditional center of the city's business community, is presently in danger

of losing economic viability. The purpose of this section is to protect a crucial part of Lodi's economy and preserve a portion of the city's heritage by offering incentives for businesses to locate, relocate or expand within this area.

B. For purposes of this section, the "central business district" shall mean an area whose boundaries are the same as those for the area subject to the city of Lodi bond issue, Series 1995-1, dated July 22, 1996, more particularly described in the bond documents and map on file with the city clerk's office.

C. Wastewater capacity fees for any permitted use which locates, relocates or expands within the central business district as defined shall be discounted as determined by the city council by resolution.

D. Notwithstanding any discount granted under this section, the monthly or annual sewage fees set by city council from time to time for any use locating, relocating or expanding within the central business district, shall be calculated on the full number of sewage service units which the use would have otherwise been responsible for under Section 13.12.180 of this code if such use was located outside the central business district.

13.12.200 Industrial system service charges.

A. Industrial system sewage service charges shall be determined based upon the actual quantity of flow and BOD discharged annually. The unit cost for each characteristic will be determined annually and multiplied by each user's measured effluent characteristics. The total of the two characteristic fees shall be the annual sewage service charge.

B. The unit cost for each characteristic shall be determined by distributing the total operation, maintenance and capital costs to each characteristic at a proportionate rate and dividing each proportionate cost by the total annual quantity of each characteristic discharged to the system.

13.12.210 Industrial system capacity fees.

Fees shall be determined on an individual basis by the public works director and shall be, in part, based upon the value of existing capacity to be utilized and/or the cost of providing additional new capacity. The capacity fee shall be based on a unit rate for flow and BOD.

13.12.215 Adjustments and additions.

A. Service Charge Adjustments. When it is found that a reasonable estimation of wastewater quantity or quality, or other applicable units of measure, have not been used for the assessment of sewage service charges the city has the right to make adjustments as determined by the public works director. Undercharges for the period of incorrect billing up to three years, per California Code of Civil Procedures, Section 338, are due and payable on demand and overcharges will be credited.

B. Capacity Fee Adjustments. Any user, after one full year of operating data is available, may request the public works director to make an adjustment, or the public works director may institute an adjustment, if a significant variation exists between the estimated and actual wastewater quantity or quality, or other applicable units of measure. Increases in capacity

fees shall be due and payable on demand at the time the public works director makes the fee adjustment and decreases will be credited.

C. Capacity Fee Additions. When a user has in the opinion of the public works director significantly increased either wastewater quantity or quality or units of measure over what was used for all previous capacity fee calculations, additional capacity fee charges shall be assessed for the additional wastewater treatment capacity utilized. Such additional capacity fees shall be due and payable on demand at the current rate at the time the public works director makes the determination.

13.12.220 Storm drain and cooling water service charges.

A. The rate for disposal of stormwaters, cooling water discharges or construction flush waters into the city's storm drain system will be established by resolution.

B. The city shall estimate and determine the amount of storm, cooling water or construction flush waters deposited into the city's storm drains unless the user of the service elects to provide, install and maintain in good working order an integrating meter satisfactory to the city for the purposes of measuring such storm, cooling water or construction flush waters.

C. In determining the amount of storm, cooling water or construction flush waters deposited into the city's storm drain system, no charge shall be made for the storm waters or minor irrigation waters or drainage from roofs, pavements or hard-surfaced areas within the city limits. Where such drainage is metered along with construction flush water, a credit of one thousand two hundred fifty gallons per year for each one hundred square feet, as projected and measured upon a horizontal plane, of such drainage area tributary to the meter shall be allowed. Where roofs or other areas are sprinkled or flushed, such flushing or sprinkling waters shall be included in the quantities for billing purposes.

13.12.230 Holding tank waste charges.

The charge for a discharge of holding tank wastes shall be based on the method for determining charges for the high strength user in the domestic system as outlined in Section 13.12.180(D). Characteristics of BOD and SS shall be determined by random sampling of holding tank waste discharges.

13.12.240 Charges and fees.

The schedule of charges and fees for domestic system service charges and capacity fees, industrial system service charges and capacity fees, storm drain service charges, inspection sampling and analysis charges, and holding tank waste charges will be those established and adopted by the city council from time to time by resolution.

13.12.250 Billing and collections.

All billing and collections for service charges shall be per Section 13.04.030 of this code.

13.12.260 Appeals.

The owner or occupants of any premises who finds that the charges and/or fees provided for in this article are unjust or inequitable may make application to the public works director to have

the fees modified, in accordance with Section 13.12.590. A commercial or industrial discharger, after one full year of operating data is available, may request the public works director to make an adjustment, or the public works director may institute an adjustment, if a significant variation exists between the estimated and actual quantities for each characteristic. Increases in capacity fees shall be due and payable on demand at the time the public works director makes the fee adjustment and decreases will be credited. Increases or decreases in sewage service charges shall be implemented in the next billing following the determination by the public works director that adjustment is appropriate. Where water usage is metered, the estimated sewer flows may be compared to a two-bedroom residence (one SSU) to determine or adjust the capacity fee or sewage service charge.

Article IV Construction Generally

13.12.270 Permit.

No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any sewerage system or appurtenances, thereof without first obtaining a written permit from the public works director.

13.12.280 Design standards.

All construction of public sewerage systems or appurtenances thereof shall conform to the design criteria, the standard plans and specifications and the inspection and testing procedures in accordance with current city public improvement design standards.

13.12.290 Application for service.

Whenever a property owner is desirous of obtaining sewer service where no adequate sewer system exists, an application shall be made to the public works director for sewer service in accordance with Article V of this chapter.

Article V Extensions

13.12.300 Purpose.

The city council is desirous of adopting a sewer service and extension policy that is fair and equitable to all developing properties and that provides that the cost of extension shall be distributed among subsequently developing properties connecting thereto. For purposes of this article, storm drains shall be considered as sewers except as specifically stated otherwise.

13.12.310 Application.

Whenever a property owner is desirous of obtaining sewer service, an application shall be made to the public works director for sewer service. The public works director shall determine the closest adequate sewer and, if an extension is necessary, indicate the size of the main to be extended and the limits of the extension.

13.12.320 Applicant's obligation.

Whenever the public works director determines that a sewer extension is necessary, the applicant will be required to install, at the applicant's own expense, the sewer extension in

accordance with engineering plans furnished by applicant and approved by the public works director. The plans shall be prepared in accordance with the city design standards.

13.12.330 Extension for full frontage width.

In every case where a sewer is to be tapped to serve a parcel, the same shall be extended the full frontage of the parcel unless the public works director determines that the sewer will not need to be extended to serve any other properties.

13.12.340 Minimum diameter.

The minimum size sewer main shall have a nominal inside diameter of six inches. The minimum size storm drain shall have a nominal inside diameter of twelve inches. Larger size mains may be required as determined by the public works director in accordance with the city public improvement design standards or the city master sewer and storm drain plans.

13.12.370 Reimbursement-Oversize mains.

Wherever the city requires that a sewer main larger than ten inches in diameter or a storm drain larger than eighteen inches in diameter be installed in order to serve additional property or to conform to the applicable master plan, the applicant shall be reimbursed for the oversized pipe. The reimbursement shall be based on the difference in cost between the actual pipe to be installed and a ten-inch sewer or eighteen-inch storm drain as applicable. The difference in cost shall be determined by the public works director. The reimbursement shall be made in accordance with Chapter 16.40.

Article VI
Administration

13.12.420 Discharge reports.

In addition to the federally required reports described in Section 13.12.120, the city may require that any high-strength user discharging, or proposing to discharge, wastewater into a sewerage system, file a periodic discharge report. The discharge report may include, but not be limited to, nature of process, volume, rates of flow, mass emission rate, temperature, pH, production quantities, hours of operation, number and classification of employees, chemicals and materials stored or used, or other information which relates to the generation of waste including characteristics in the wastewater discharge. Such reports shall also include the chemical characteristic and quantity of liquid or gaseous materials used annually as well as those stored on site, even though the latter may not normally be discharged. All reports are due fourteen days after the conclusion of monitoring or receipt of the laboratory analysis report and must be signed by an Authorized Representative of the industrial user. All such reports shall be retained for a period of three years (or period of litigation, whichever is longer), and shall be made available for inspection and copying by the city. In addition to discharge reports, the city may require information in the form of wastewater discharge permit applications and self-monitoring reports.

13.12.430 Discharge permit-Required.

All significant users proposed to connect or to discharge into a sewerage system after the effective date of the ordinance codified in this chapter must obtain a wastewater discharge permit before connecting to, or discharging into, a sewerage system. All existing significant

users connected to, or discharging into, a sewerage system must apply for a wastewater discharge permit within one hundred eighty days after the effective date of the ordinance codified in this chapter.

13.12.440 Discharge permit-Optional.

The public works director may issue a wastewater discharge permit to any user in accordance with the terms of this article in the following categories:

A. A user who requires the user charges and fees to be based on an estimation of wastewater flow;

B. Any user whose wastewater strength is less than the normal range for the user classification because of pretreatment, process changes or other reasons;

C. Any single dwelling, office, commercial business, lodge, apartment, church or multi-use building user who discharges only domestic waste.

13.12.450 Discharge permit-Application.

A. Users seeking a wastewater discharge permit shall complete and file with the public works director an application in the form prescribed by the public works director, and accompanied by any applicable fees. The applicant may be required to submit, in units and terms appropriate for evaluation, the following information:

1. Name, address and SIC number of applicant;
2. Volume of wastewater to be discharged;
3. Wastewater constituents and characteristics including, but not limited to, those mentioned in Article II of this chapter;
4. Time and duration of discharge;
5. Average and peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
6. Any other information determined necessary by the public works director to evaluate the permit application. This may include, but is not limited to, the following:
 - a. Site plans, floor plans, mechanical, and plumbing plans, water supply and discharge information and details to show all sewers and appurtenances by size, location and elevation,
 - b. Description of activities, facilities and plant process on the premises including all materials, processes and types of materials which are, or could be, discharged,
 - c. Each product produced by type, amount and rate of production,

d. Number of employees and hours of work.

B. All wastewater discharge permit applications and user reports must be signed by an Authorized Representative of the user and contain the following certification statement: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

C. The public works director will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the public works director may issue a wastewater discharge permit subject to terms and conditions provided in this article.

13.12.460 Discharge permit-Conditions.

Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other regulations, user charges and fees established by the city council. The conditions of wastewater discharge permits shall be uniformly enforced by the public works director or assigned agent in accordance with this chapter, and applicable state and federal regulations. Permits may contain the following:

A. The unit charge or schedule or user charges and fees for the wastewater to be discharged to the sewerage system;

B. The collection of capacity fee, inspection fee and prepayment for the prorated portion of annual user charges, if collected annually;

C. The average and maximum wastewater characteristics;

D. Limits on rate and time of discharge or requirements for flow regulations and equalization;

E. Requirements for installation of inspection, monitoring and sampling facilities;

F. Pretreatment requirements;

G. Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types as specified in 40 CFR 403.12(g)(3) and (g)(4) and standards for tests as specified in 40 CFR 136 and reporting schedule;

H. Requirements for submission of technical reports or discharge reports;

I. Requirements for maintaining plant records relating to wastewater discharge as specified by the city, and affording the city access thereto;

J. Mean and maximum mass emission rates, or other appropriate limits when incompatible pollutants (as defined in Article I of this chapter) are proposed or present in the user's wastewater discharge;

K. Other conditions as deemed appropriate by the public works director to ensure compliance with this chapter and federal and state regulations.

L. Requirements for "slug discharge" plans as required by 40 CFR 403.8(f)(2)(v).

13.12.470 Discharge permit-Term-Changes-Renewal.

Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. A user discharging after the expiration date of the permit shall be considered in violation of this chapter. It is the responsibility of the user to apply for a new discharge permit sixty days before the expiration date of their existing permit. The terms and conditions of the permit may be subject to modification and change by the city during the life of the permit, as limitations or requirements stipulated in this chapter are modified and changed. The user shall be informed of any proposed changes in user's permit at least thirty days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

13.12.480 Discharge permit-Transfer.

Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be assigned, transferred or sold to a new owner, new user, different premises or a new or changed operation without prior written approval of the public works director.

13.12.490 Discharge permit-Suspension.

A permit may be temporarily suspended at any time if it is the public works director's opinion that the continued discharge of the waste or water into the sewerage system would substantially jeopardize the ability of the treatment facilities or sewerage system to meet water quality requirements or would cause an unsafe condition to occur. In lieu of temporary suspension of permits, the public works director may impose such temporary restrictions, conditions or limitations upon the quantities, qualities and rates of discharge made thereunder as deemed necessary to assure that the receiving water quality requirements will not be violated or to alleviate the unsafe condition. Notice of the temporary suspension or the imposition of temporary restrictions, conditions or limitations shall be given in writing by the public works director to the permittee at least twenty-four hours prior to their effective date. Delivery of the notice to the permittee's place of business shall constitute delivery of notice to permittee.

13.12.500 Discharge permit-Revocation.

Any user who violates the following conditions of the permit or of this chapter, or applicable state and federal regulations, is subject to having this permit revoked:

A. Failure of a user to factually report the wastewater constituents and characteristics of their discharge;

B. Failure of the user to report in advance significant changes in operations or wastewater constituents and characteristics;

C. Refusal of reasonable access to the user's premises and/or records for the purpose of inspection or monitoring of all possible sources of pollution;

D. Failure to pay city utility bills;

E. Violation of conditions of the permit.

13.12.510 Monitoring facilities.

A. The public works director may require the user to construct and maintain, at the user's expense, monitoring facilities which meet all government safety regulations (OSHA) to allow inspection, sampling and flow measurement of the building sewer or internal storm drainage systems and may also require sampling or metering equipment to be provided, installed, operated and maintained at the user's expense. The monitoring facility should normally be situated on the user's premises, but the public works director may, when such a location would be impractical or cause undue hardship on the user or the city, require the facility to be constructed in the public right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

B. When the monitoring facility is inside the user's fence, there shall be accommodations to allow access for the public works director or designated representative, such as a gate secured with a city lock. There shall be ample room in or near such monitoring facility to allow accurate sampling and compositing of samples for analysis. The monitoring facility shall be maintained at all times in a safe and proper operating condition at the expense of the user.

C. Whether constructed on public or private property, plans and specifications shall be approved by the public works director and be in accordance with all applicable city construction standards and specifications. Construction shall be completed within sixty days following written notification by the city, unless a time extension is otherwise granted by the city.

13.12.520 Inspection, sampling, monitoring and analysis.

The public works director or designated representative may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the public works director or designated representative ready access at all reasonable times to all parts of the premises for the purposes of inspection or sampling or in the performance of any of their duties. The public works director or designated representative shall have the right to set up on the user's property such devices as are necessary to conduct sampling or metering operations and be allowed to copy any of the user's discharge records. All user discharge records shall be retained for a minimum of three years per 40 CFR 403.12(o). Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with its security guards so that upon presentation of suitable identification, the public works director or designated representative will be permitted to enter without delay for the purposes of performing their specific responsibilities. The user will be charged a fee to recover the costs for inspections (investigations), sampling, monitoring and analyses performed by the city for purposes of billing and ensuring compliance with all regulations.

13.12.530 Accidental discharge prevention.

A. Each user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this chapter. Such facilities shall be provided and maintained at a level of operation comparable to that of the original construction at the user's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the public works director before construction of the facility.

B. The review of such plans and operating procedures by the public works director will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

C. If any wastewater is spilled onto any surface or area in such a manner where there is the possibility of contact with any person, that wastewater shall be cleaned up at the expense of the property owner or a designate within a reasonable time as determined by the city, or the city will clean up the spilled wastewater and bill the property owner or designate for the cleanup. If warranted, or as directed by the city, property management must adequately notify tenants and post area of spill with warning signs.

13.12.540 Confidential information.

A. All information and data on a user obtained from reports, questionnaires, permit application, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the public works director that the release of such information would divulge information, processes or methods that would be detrimental to the user's competitive position.

B. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use in making studies per 40 CFR 403.14; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

13.12.550 Special agreements.

Special agreements and arrangements between the city and any persons or agencies may be established when, in the opinion of the city council, unusual or extraordinary circumstances compel special terms and conditions. However, in no case may federal pretreatment standards be waived or modified.

Article VII
Enforcement

13.12.560 Accidental discharge notice.

A. Notice to Authorities.

1. Upon accidentally discharging wastes in violation of this chapter, or in violation of a city-issued discharge permit, users shall notify the Water Services Manager or the White Slough Water Pollution Control Facilities (WSWPCF) personnel immediately by telephone or in person, or by calling the public works department twenty-four-hour emergency number to enable countermeasures to be taken by the city to minimize damage to the sewerage system, treatment facility, treatment processes and/or the receiving water.
2. This notification shall be followed, within ten calendar days of the date of occurrence, by a detailed written statement to the public works director describing the cause, location, type, volume, concentration, date, time and duration of the accidental discharge, measures taken to correct the problem, and steps taken to prevent future occurrence.
3. Such notification will not relieve users of liability for any expense, loss or damage to the sewerage system, treatment plant or treatment process, or for any fines imposed on the city on account thereof under Section 13350 of the California Water Code or for violations of Section 5650 of the California Fish and Game Code.

B. If sampling performed by a user indicates a violation, the user must notify the water/wastewater superintendent or the WSWPCF personnel within twenty-four hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the public works director within thirty days after becoming aware of the violation per 40 CFR 403.12(g)(2).

C. Employee Training. In order that employees of users be informed of the city's requirements, users shall make available to their employees copies of this chapter, together with such other wastewater information and notices which may be furnished by the city from time to time directed toward more effective water pollution control. A notice shall be furnished and permanently posted on the user's bulletin board advising employees whom to call in case of an accidental discharge in violation of this chapter.

13.12.565 Notice of Potential Problems, Including Slug Loading, Regardless of Whether or Not a Discharge Violates the Terms of this Chapter.

All Industrial users shall notify the Water Services Manager or White Slough Water Pollution Control Facility personnel immediately of all discharges that could cause problems to the WSWPCF including slug discharge as defined by Lodi Municipal Code §13.12.020 (50).

13.12.566 Notice of Facility Changes Affecting Potential for Slug Discharges.

All significant Industrial Users are required to notify the Water Services Manager or White Slough Water Pollution Control Facilities personnel of all changes at their facility that affect the potential for a Slug Discharge.

13.12.567 Notice of Changed Discharge.

Users must notify the public works director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty days before the change.

13.12.570 Cease and desist order.

When the city finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this chapter, or the provisions of a wastewater discharge permit, the public works director may issue an order to cease and desist, and direct those persons not complying with such prohibitions, limits, requirements or provisions, to:

- A. Comply forthwith;
- B. Comply in accordance with a time schedule set forth by the city; or
- C. Take appropriate remedial or preventive action in the event of a threatened violation.

13.12.580 Compliance timetable.

When the city finds that a discharge of wastewater has been taking place, or is threatening to take place, in violation of prohibitions or limitations prescribed in this chapter, or wastewater source control requirements, effluent limitations or pretreatment standards, or the provisions of a wastewater discharge permit, the city may require the user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions, which the user shall take in order to prevent or correct a violation of requirements.

13.12.590 Appeals.

A. Any user, permit applicant or permit holder affected by any decision, action or determination, including cease and desist orders, made by the public works director, interpreting or implementing the provisions of this chapter or in any permit issued in this chapter, may file with the public works director a written request for reconsideration within twenty days of such decision, action or determination, setting forth in detail the facts supporting the user's request for reconsideration. The public works director may accept the application, reject the application for sound reasons or direct the applicant, at applicant's sole expense, to maintain and operate in a manner satisfactory to the public works director such indicating or integrating meters as may be required to properly measure the flow, establish sampling equipment, tests and procedures satisfactory to the public works director to determine the characteristics of the wastes.

B. If the ruling made by the public works director is unsatisfactory to the person requesting reconsideration, the person may, within twenty days after notification of the city's action, file a written appeal to the city council. The written appeal shall be heard by the council within twenty days from the date of filing. The city council shall make a final ruling on the appeal within twenty days of the hearing. The public works director's decision, action or determination shall remain in effect during such period of reconsideration.

13.12.600 Liability.

Any person, firm or corporation, or any partner, officer, agent or employee thereof, who deposits or permits to be deposited into the city's sewerage system any wastes other than those

permissible under the terms of this chapter and the terms of a valid permit granted under this chapter is liable for any and all damage caused to the city by virtue of such act, including compensation for damage to the city's facilities, and all costs of any legal fees, suits or judgments against the city which may be attributable to such wastes so discharged.

13.12.610 Injunction.

Whenever a discharge of wastewater is in violation of the provisions of this chapter or otherwise causes or threatens to cause a condition of contamination, pollution or nuisance, the city may petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate in restraining the continuance of such discharge.

13.12.620 Damage to sewerage system-Charge.

When a discharge of wastewaters or any other substance causes an obstruction, damage or any other impairment to the city's sewerage system, the city shall assess a charge against the user for the work, materials and services required to clean or repair the affected portions of the sewerage system.

13.12.630 Civil penalties.

Any person who violates any provision of this chapter or permit condition or who discharges wastewater which causes pollution, or who violates a cease and desist order, prohibition, effluent limitation, national standard of performance, pretreatment or toxicity standard shall be liable civilly to a penalty not to exceed six thousand dollars for each day in which such violation occurs. The city attorney, upon order of the city council, shall petition the superior court to impose, assess and recover such sums.

13.12.640 Termination of service.

The city may revoke any wastewater discharge permit, or terminate or restrict or cause to be terminated or restricted wastewater service to any premises, which may include termination or restriction of the water service if warranted, if a violation of any provisions of this chapter is found to exist or if a discharge of wastewater causes or threatens to cause a condition of contamination, pollution or nuisance as defined in this chapter. The city also reserves the right to immediately disconnect any user, upon informal notice only, in the event of an unlawful discharge which may cause imminent danger to human health, the environment, or which threatens to interfere with the treatment plants operation. This provision is in addition to other statutes, rules or regulations, authorizing termination of service for delinquency in payment.

13.12.650 Public notice of violation.

A. In accordance with Federal Pretreatment Regulations 40 CFR 403, the city shall publish, at least annually in the largest daily newspaper circulated in the service area, a description of those industrial users which are found to be in Significant Noncompliance with any provisions of this chapter or in significant violation of any permit or order issued hereunder during the period since the previous publication.

Approved this ____ day of _____, 2009

LARRY D. HANSEN
Mayor

ATTEST:

RANDI JOHL
City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held February 4, 2009, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved to Form:

D. STEPHEN SCHWABAUER
City Attorney



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Approval of Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation and Various Other Cases being Handled by Outside Counsel (\$161,948.01).

MEETING DATE: February 4, 2009 City Council Meeting

PREPARED BY: City Attorney's Office

RECOMMENDED ACTION: Approval of Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation and Various Other Cases being Handled by Outside Counsel (\$161,948.01).

BACKGROUND INFORMATION: Listed below are invoices from the City's outside counsel, Folger, Levin & Kahn; Kronick, Moskovitz, Tiedemann & Girard and Miscellaneous Invoices for services incurred relative to the Environmental Abatement Program litigation and various other matters that are currently outstanding and need to be considered for payment.

Folger Levin & Kahn - Invoices Distribution

Matter No.	Invoice No.	Date	Description	Water Acct.
8008	112736	12/01/08	City of Lodi v. Envision	145,425.11
	134985	01/15/08	Hemming Morse, Inc.	4,543.00
		Dec-08	Thomas Haas, Expert Witness	7,312.50
Total				\$157,280.61

Kronick Moskovitz Tiedemann & Girard - Invoices Distribution

Matter No.	Invoice No.	Date	Description	100351.7323
11233.01	242727	01/25/09	General Advice	120.30
11233.026	242727	01/25/09	Lodi First v. City of Lodi	2,139.10
11233.027	242727	01/25/09	Citizens for Open Gov't v. City of Lodi	2,363.00
11233.029	242727	01/25/09	AT&T v. City of Lodi	45.00
Total				\$ 4,667.40

FISCAL IMPACT: Expenses in the amount of \$4,667.40 will be paid out of the General Fund and \$4,502.10 billed to Wal-Mart for City's defense of the Lodi First and Citizens for Open Government litigation, the remaining expenses will be paid out of the Water Fund.

FUNDING AVAILABLE: 100351.7323 - \$ 4,667.40
184010.7323 - \$157,280.61

Approved: _____
Kirk Evans, Budget Manager

D. Stephen Schwabauer, City Attorney

APPROVED: _____
Blair King, City Manager



TM

CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Ordinance No. 1818 Entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 12 – Streets, Sidewalks, and Public Places – by Repealing and Reenacting Chapter 12.07 Relating to the Lodi Tourism Business Improvement District (LTBID)"

MEETING DATE: February 4, 2009

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1818.

BACKGROUND INFORMATION: Ordinance No. 1818 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 12 – Streets, Sidewalks, and Public Places – by Repealing and Reenacting Chapter 12.07 Relating to the Lodi Tourism Business Improvement District (LTBID)," was introduced at the regular City Council meeting of January 21, 2009.

ADOPTION: With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. *Id.* All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. ***Cal. Gov't Code § 36934.***

Ordinances take effect 30 days after their final passage. ***Cal. Gov't Code § 36937.***
This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Randi Johl
City Clerk

RJ/jmp
Attachment

APPROVED: _____
Blair King, City Manager

ORDINANCE NO. 1818

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI AMENDING
LODI MUNICIPAL CODE TITLE 12 – STREETS, SIDEWALKS, AND PUBLIC
PLACES – BY REPEALING AND REENACTING CHAPTER 12.07 RELATING
TO THE LODI TOURISM BUSINESS IMPROVEMENT DISTRICT (LTBID)

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BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Title 12 – Streets, Sidewalks, and Public Places – of the Lodi Municipal Code is hereby amended by repealing and reenacting Chapter 12.07 in its entirety relating to the Lodi Tourism Business Improvement District (LTBID) and shall read as follows:

Chapter 12.07 LODI AREA TOURISM BUSINESS IMPROVEMENT DISTRICT

SECTIONS:

12.07.010 Authority
12.07.020 Resolution of Intention
12.07.030 Resolution of Intention, Notice, Hearing, and Protest
12.07.040 Definitions
12.07.050 Established—Name
12.07.060 Description of Boundaries
12.07.070 Levy of Assessment—Use of Proceeds
12.07.080 Annual Review of Assessments
12.07.090 Levy of Assessment—Amount
12.07.100 Levy of Assessment—Use of Revenue—Authority
12.07.110 Assessment—Calculation of Taxes
12.07.120 Records
12.07.130 Levy of Assessment—Collection, Delinquency, and Penalty

12.07.010 Authority.

The proceedings herein are taken pursuant to the authority of the Parking and Business Improvement Area Law of 1989, codified as California Streets and Highways Code Sections 36500 through 35551, inclusive. The hotels within the boundaries of the district established by this Ordinance shall be subject to any amendments of the Parking and Business Improvement Area Law of 1989.

12.07.020 Resolution of Intention.

This chapter is adopted pursuant to the Resolution of Intentions (Resolution No. 2004-191 and Resolution No. 2008-229) adopted by the Lodi City Council on September 15, 2004 and November 19, 2008, respectively, pursuant to the authority of the Parking and Business Improvement Area Law of 1989.

12.07.030 Resolution of Intention, Notice, Hearing, and Protest.

A. Resolution of Intention No. 2004-191 was published and mailed as provided by law, and a public hearing thereon was held by the City Council on October 6, 2004, at 7:00 p.m. before the City Council in the Chambers of the Lodi City Council at the Carnegie Forum, 305 West Pine

Street, Lodi, California. A protest against the proposed formation of "Lodi Tourism Business Improvement District" has not been made by businesses which will pay fifty percent or more of the proposed assessment. All protests, both written and oral, are overruled and denied and the City Council finds that there is not a majority protest within the meaning of Sections 36524 and 36525 of the California Streets and Highways Code.

B. Resolution of Intention No. 2008-229 was published and mailed as provided by law, and a public hearing thereon was held by the City Council on January 21, 2008, at 7:00 p.m. before the City Council in the Chambers of the Lodi City Council at the Carnegie Forum, 305 West Pine Street, Lodi, California. A protest against the expansion of the "Lodi Area Tourism Business Improvement District" has not been made by businesses which will pay fifty percent or more of the proposed assessment. All protests, both written and oral, are overruled and denied and the City Council finds that there is not a majority protest within the meaning of Sections 36524 and 36525 of the California Streets and Highways Code.

12.07.040 Definitions.

For the purposes of this chapter, the following definitions apply:

- a. "Finance Director" means the director of finance for the city or his/her designated representative.
- b. "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, including, but not limited to, any hotel, inn, bed and breakfast, tourist home or house, motel, studio hotel, bachelor hotel, lodging-house, or other similar structure or portion thereof.
- c. "Short Term Room Rental" shall mean occupancies that last less than 30 consecutive calendar days.
- d. "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

12.07.050 Established—Name.

There is hereby established a parking and business improvement area, which shall be known as the "Lodi Area Tourism Business Improvement District," hereinafter for brevity and convenience sometimes referred to as "LTBID."

12.07.060 Description of Boundaries.

The boundaries of the LTBID shall be the boundaries of the City of Lodi and County Service Area #31 ("Flag City").

12.07.070 Levy of Assessment—Use of proceeds.

The improvements and activities to be provided in the LTBD will be funded by the levy of the assessments. The City Council hereby finds that the hotels within the business and improvement area will be benefited by the improvements and activities funded by the assessments to be levied. The revenue from the levy of assessments within the LTBD shall not be used to provide improvements or activities outside the LTBD or for any purpose other than the purposes specified in the Resolution of Intention. The proceeds from the LTBD assessment, as hereinafter provided, shall be used to administer marketing programs to promote the District as a tourism destination and to fund projects, programs, and activities that benefit hotels within the District.

12.07.080 Annual Review of Assessments.

All of the assessments imposed pursuant to this chapter shall be reviewed by the City Council annually, based upon the annual reports prepared by the advisory board appointed pursuant to this chapter and Sections 36530 and 36533 of the California Streets and Highways Code. The annual report shall include a budget for operations and a detailed identification of the marketing efforts to be undertaken by the LTBD for the ensuing calendar year.

12.07.090 Levy of Assessment—Amount.

The proposed LTBD will include all hotels within the District. The assessment shall be levied on all hotels, existing and future, within the District based upon 3% of the gross Short Term Room Rental revenue. Except where funds are otherwise available, an assessment will be levied annually to pay for the improvements and activities within the area and will be collected quarterly based on 3% of the gross Short Term Room Rental revenues for the previous quarter. New hotels within the boundaries will not be exempt from the levy of assessment pursuant to Section 36531 of the California Streets and Highways Code. Assessments pursuant to the LTBD shall not be included in gross room rental revenue for purpose of determining the amount of the transient occupancy tax.

12.07.100 Levy of Assessment—Use of revenue—Authority.

An advisory board shall be appointed by the City Council to make recommendations concerning the operation and extent of the LTBD and the methods and ways the revenue derived from the assessment imposed by this chapter shall be used within the scope of the purposes set forth in Section 12.07.070, and to incur obligations against the funds derived from the assessment only according to policy guidelines the City Council from time to time may establish and direct, and to perform only such other powers and duties as the Council from time to time may determine and direct. The City Council shall annually approve a budget, which shall include a program of activities intended to carry out the purposes set forth in Section 12.07.070, accompanied with an estimate of expenditures.

12.07.110 Assessment – Calculation of Taxes.

The assessment imposed by this Ordinance is levied upon the hotels within the district, and the operator of each hotel shall be solely responsible for paying all assessments when due. Notwithstanding the foregoing, in the event that the operator of a hotel elects to pass on some or all of the assessment to customers of the hotel, the operator of the hotel shall separately identify or itemize the assessment on any document provided to a customer. Assessments levied on the operators of hotels pursuant to this Ordinance and passed on to customers are not part of a hotel's gross receipts or gross revenues for any purpose, including the calculation of sales or use tax, transient occupancy tax, or income pursuant to any lease. However, assessments that are passed on to customers shall be included in gross receipts for purposes of income and franchise taxes.

12.07.120 Records.

It shall be the duty of every operator of a hotel liable for the collection and payment to the applicable city or the county of any assessment imposed by this chapter to keep and preserve for a period of three years all records as may be necessary to determine the amount of such assessment as he may have been liable for the collection of and payment to the applicable city or the county, which records the applicable city or the county shall have the right to inspect at a reasonable time and following twenty-four (24) hour prior written notice.

12.07.130 Levy of Assessment--Collection, Delinquency, and Penalty.

The collection of the assessment imposed by this chapter shall be made on a quarterly basis from hotels within the District . The City of Lodi will collect the assessment on the same form as that used for the collection of Transient Occupancy Tax receipts. Each operator shall, on or before the last day of each quarter, make a report to the Finance Director on forms provided by city of the amount of assessment due for that quarter. The report and amount become delinquent twenty days after they are due. The full amount of the assessment calculated shall be remitted to the Finance Director at the time the return is filed. The Finance Director may establish shorter reporting or remitting periods for any operator and may require additional information in any return. Returns and payments are due immediately upon cessation of business for any reason. Each return shall contain a declaration under penalty of perjury, executed by the operator or its authorized agent, that, to the best of the declarant's knowledge, the statements in the return are true, correct, and complete.

Any operator who fails to remit any assessment imposed by this chapter within the time required shall pay a penalty of ten percent of the amount of the assessment in addition to the amount of the assessment. Any operator who fails to remit any delinquent remittance on or before the 15th day of the month following date of the first penalty shall pay a second delinquency penalty of ten percent of the amount of the assessment in addition to the amount of assessment and ten percent penalty first imposed.

If the Finance Director determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the assessment shall be added thereto in addition to the penalties stated above.

In addition to the penalties imposed, any operator who fails to remit any assessment imposed by this chapter shall pay interest at the rate of one percent per month or fraction thereof on the amount of tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

Every penalty imposed and such interest as accrued under the provisions of this section shall become a part of the assessment required to be paid by this chapter.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care toward persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except otherwise imposed by law.

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall take effect 30 days from and after its passage and approval.

Approved this 4th day of February, 2009

LARRY D. HANSEN
Mayor

Attest:

RANDI JOHL
City Clerk

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State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1818 was introduced at a regular meeting of the City Council of the City of Lodi held January 21, 2009, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held February 4, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES; COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1818 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney